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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
COMMONWEALTH EDISON RATE CASE, No. 05-0597
Proposed General increase in
rates for delivery service
(tariffs filed on August 31,
2005.)

Chicago, Illinois
March 23, 2006

Met, pursuant to notice, at 10:00 a.m.

BEFORE:
MR. GLENNON DOLAN and MS. KATINA HALOULOS,
Administrative Law Judges

APPEARANCES:

MR. RICHARD G. BERNET
MS. ANASTASIA POLEK-O'BRIEN
10 South Dearborn Street, Suite 3500
Chicago, Illinois 60603
Appearing for for ComEd;

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3 MR. E. GLENN RIPPPIE and
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Appearing for ComEd;

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6 MR. RICHARD C. BALOUGH
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9 MR. MARK KAMINSKI
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16 (Direct Energy Services, LLC,
MidAmerican Energy Company, Peoples
17 Energy Services Corporation, and
US Energy Savings Corp.)

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9 Building Owners and Managers
10 Association of Chicago;

11 HINSHAW & CULBERSON, by
12 MR. EDWARD GOWER
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17 1000 Independence Avenue
18 Southwest, Washington, DC 20585
19 for U.S. Department of Energy;

20 CITIZENS UTILITY BOARD,
21 MR. ROBERT KELTER
22 MS. JULIE SODERNA AND
MR. MELVILLE NICKERSON
208 South LaSalle, Suite 1760
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Appearing for CUB.

21 SULLIVAN REPORTING COMPANY, by
22 Carla L. Camiliere, CSR,
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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Examiner</u>
Robert W. Gee					856
Jerome P. Hill	859	881 888 895 906			907
Michael McGarry	910				
Jerome Hill			913	935 940 944 945 947	
Richard Meischeid	949	951			
Susan Tierney	953	955			
David DeCampli	960	965 992			
Scott Rubin		1024	1039	1043	1044
		1046 1052	1091		
Robert R. Stevens	1095		1122	1125	
Mr. Thomas	1131	1137 1152	1154		
Mark Hansen	1157	1158 1166 1170			

1	<u>E X H I B I T S</u>		
2	<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
3	ComEd		
	# 6.0	856	859
4	# 2.0	914	
	# 3&4	938	
5	# 12 & 27		951
	# 22 & 38		955
6	# 4.0,14.0 & 31.0		963
	CTA		
7	#1	1014	
	Ag		
8	# 2.0 & 4.0		1046
	IIEC		
9	# 1.0 & 5.0		1094
	ComEd		
10	# 5	1145	1155
	ICC STAFF		
11	# 7.0 & 18	1157	1158
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20	In camera pages 974-979		
21			
22			

1 JUDGE DOLAN: Good morning, everybody.

2 By the power and authority of the
3 Illinois Commerce Commission, I call Docket
4 No. 05-0597, Commonwealth Edison Company proposed
5 general increase of electric rates, general
6 restructuring of rates, price unbundling of bundled
7 service rates of revision of other terms and
8 conditions of service.

9 Will the parties please identify
10 themselves for the record.

11 MS. O'BRIEN: Darryl Bradford Richard G. Bernet
12 and Anastasia Polek-O'Brien, appearing for
13 Commonwealth Edison Company.

14 Also appearing for Commonwealth
15 Edison, Mr. E. Glenn Rippie and John Ratnaswamy of
16 the law firm of Foley and Lardner, and Dale E. Thomas
17 for the law firm of Sidley, Austin.

18 MR. FEELEY: For the Illinois Commerce
19 Commission, John Feeley, Carmen Fosco, Sean Brady,
20 and Carla Scarsella, 160 North LaSalle Street, Suite
21 C-800, Chicago, Illinois 60601.

22 MR. KAMINSKI: Mark Kaminski and Rishi Garg,

1 100 West Randolph Street, Chicago, Illinois 60601 on
2 behalf of the People of the State of Illinois.

3 MR. GOLDENBERG: Alan Goldberg and Mary D.
4 Spicuzza, Assistant State's Attorney on behalf of the
5 Cook County State's Attorney's, 69 West Washington,
6 Suite 3930, Chicago, Illinois 60602.

7 MR. POWELL: On behalf of the City of Chicago,
8 J. Mark Powell and Ronald D. Jolly, 30 North LaSalle,
9 Suite 900, Chicago, Illinois 60602.

10 MS. PUSEMP: On behalf of the Building Owners
11 and Managers Association of Chicago, Christina
12 Pusemp, Patrick Giordano and Paul Neilan, of the law
13 firm of Giordano and Neilan, 360 North Michigan,
14 Suite 1005, Chicago, Illinois 60601.

15 MR. BALOUGH: Appearing on behalf of the CTA,
16 Richard Balough, 53 West Jackson Boulevard, 956
17 Chicago, Illinois.

18 MR. GALLUP: Appearing on behalf of the United
19 States Department Energy, Lawrence Gallup, 1000
20 Independence Avenue, Southwest, Washington, DC 20585.

21 MR. NICKERSON: Appearing on behalf of the
22 Citizens Utility Board, Melville Nickerson, Robert

1 Kelter, Julie Soderna, 208 South LaSalle, Suite 1760,
2 60604.

3 MR. BORDERS: On behalf of the Coalition Energy
4 Suppliers, William Borders and Christopher Townsend,
5 Dla Piper Rudnick Gray Cary Us, LLP, 203 North
6 LaSalle, Chicago, Illinois 60601.

7 MR. ROBERTSON: Eric Robertson, Leaders,
8 Robertson and Konzpu and Conrad Reddick on behalf of
9 the Illinois Industrial Energy Consumers.

10 MR. GOWER: Appearing on behalf of Metra, I'm
11 Edward Gower from Hinshaw & Culberson LLP, 400 South
12 Knight, Suite 200, Springfield, Illinois 62721.

13 JUDGE DOLAN: Let the record reflect that there
14 are no other appearances.

15 Can we go off the record for one
16 second.

17 (Whereupon, a discussion was had
18 off the record.)

19 JUDGE DOLAN: Counsel.

20 MS. O'BRIEN: ComEd calls Robert W. Gee.

21

22

1 (Whereupon, ComEd (Gee)
2 Exhibit No. 6.0 was marked
3 for identification.)
4 (Witness sworn.)

5 ROBERT W. GEE,
6 called as a witness herein, having been first duly
7 sworn, was examined and testified as follows:

8 EXAMINATION

9 BY

10 MS. O'BRIEN:

11 Q Please state your name for the record
12 please.

13 A Robert W. Gee.

14 Q What is your business address?

15 A 7609 Brittany Park Court, Falls Church,
16 Virginia 22043.

17 Q Will you please give us a summary of your
18 prior experience?

19 A I have about 30 years experience in the
20 energy and regulatory sector of our country.

21 I have served in various capacities in
22 the public and private sector; first as staff counsel

1 to the Federal Energy Regulatory Commission as a
2 trial staff member, as a supervisory trial staff
3 attorney.

4 Later in the private sector, working
5 for companies and in the law firm litigating
6 regulatory rate cases before the Federal Energy
7 Regulatory Commission.

8 I subsequently had the opportunity to
9 serve upon the Public Utility Commission of Texas and
10 was chairman of that Commission for four years.

11 Subsequent to that, I served as an
12 assistant secretary of energy for the U.S. Department
13 of Energy as the assistant secretary for policy and
14 international affairs and as the assistant secretary
15 for fossil energy.

16 Since then, I've also had the
17 opportunity to serve as vice president for
18 development for the Electric Power Research
19 Institute. And now I am an energy utility consultant
20 based in the Washington, DC area.

21 Q Let me put before you what has been marked
22 as ComEd 6.0. And for the record, this was filed in

1 the e-docket system as Document No. 151969.

2 Mr. Secretary, are you familiar with
3 the document in front of you?

4 A Yes, I am.

5 Q Will you please explain what that document
6 is.

7 A This document consists of my prepared
8 direct testimony for this proceeding.

9 Q Was that document prepared by you
10 understand your direction and control?

11 A Yes, it was.

12 Q If I asked you the questions that are in
13 this document today, would the answers be the same as
14 they are in the document?

15 A Yes, they would be.

16 MS. O'BRIEN: ComEd asks for admission of
17 Exhibit 6.0 and tenders the witness for
18 cross-examination.

19 JUDGE DOLAN: Any objection?

20 Is anybody cross?

21 MS. O'BRIEN: No, there is no cross-examination
22 by the parties.

1 JUDGE DOLAN: Okay.

2 MS. O'BRIEN: Can we go off the record for a
3 second.

4 JUDGE DOLAN: Sure.

5 (Whereupon, a discussion was had
6 off the record.)

7 JUDGE DOLAN: Commonwealth Edison's Direct
8 Testimony 6.0 will be admitted into evidence.

9 MS. O'BRIEN: Thank you.

10 JUDGE DOLAN: Thank you.

11 (Whereupon, ComEd (Gee) Exhibit
12 No. 6.0 was admitted into
13 evidence.)

14 MS. O'BRIEN: ComEd re-calls Jerome Hill.

15 (Witness previously sworn.)

16 JEROME P. HILL,
17 re-called as a witness herein, having been first duly
18 sworn, was examined and testified as follows:

19 CROSS EXAMINATION

20 BY

21 MR. KAMINSKI:

22 Q Good morning, Mr. Hill. Mark Kaminiski

1 with the Attorney General's for the State of
2 Illinois.

3 A Good morning.

4 Q Would you refer to your rebuttal at
5 Page 12.

6 A I have it.

7 Q Specifically in Lines 261 and 262, you
8 describe Mr. Effron's adjustments with depreciation
9 reserve as one-sided, correct?

10 A I do.

11 Q In his direct testimony, doesn't Mr. Effron
12 present this adjustment as a response to the
13 Company's proposal to adjust the rate base for
14 proposed test year plant additions?

15 A That's how he rationalizes it, yes.

16 Q And Company is proposing to recognize an
17 increase to rate base that is taking place as a
18 result of the post-test year plant additions,
19 correct?

20 A For the plant service component of our rate
21 base in this proceeding, there are 2005 Pro Forma
22 additions, yes.

1 Q And as those planned additions take place,
2 the accumulated reserve for depreciation will also be
3 growing, correct?

4 A For that plant? For all plants?

5 Q All plants.

6 A Yes.

7 Q Referring to your surrebuttal at Page 12?

8 A I have it.

9 Q Lines 262, 263, you state that the growth
10 in accumulated reserve for depreciation is merely due
11 to the passage of time, correct?

12 A For that plant in service that is remaining
13 a plant in service from the year 2004, that is
14 correct.

15 Q The growth in the accumulated reserve for
16 depreciation is the result of the Company's recording
17 depreciation expense on the plant in service,
18 correct?

19 A Yes.

20 Q And the depreciation expense is an element
21 of the Company's cost of service, correct?

22 A I'm sorry. I missed a word in the middle

1 of that.

2 Q I will restate it.

3 Depreciation expense is an element of
4 the Company's cost of service, correct?

5 A It's test-year depreciation expense is the
6 element of test year revenue requirement, yes.

7 Q And rates paid by customers include
8 depreciation expense as an element of the Company's
9 revenue requirement, correct?

10 A If it's test year revenue requirement, yes.

11 Q Would you now refer to rebuttal at Page 43.

12 A I have it.

13 Q You state that Company's revenue
14 requirement should be determined based on labor
15 costs, not the number of employees, correct?

16 A I do.

17 Q The number of employees does effect the
18 Company's labor costs, correct?

19 A It does.

20 Q Referring again to your rebuttal at 43,
21 Lines 952 to 955, you state that using a number of
22 employees as of a point in time to calculate labor

1 costs will under estimate the Company's labor costs
2 if positions are temporarily vacant at that point,
3 correct?

4 A I do.

5 Q Mr. Effron did not use a point in time, did
6 he?

7 A My recollection is that he made an
8 adjustment to the labor cost based on a number of
9 employees at September of 2005.

10 Q In fact, didn't Mr. Effron use a six-month
11 average ending as of September 2005?

12 MR. BERNET: Can you point us to where that is
13 in his testimony.

14 THE WITNESS: I see it. Yes. I stand
15 corrected. It was a six-month average, yes.

16 BY MR. KAMINSKI:

17 Q And to quantify his proposed adjustment,
18 Mr. Effron used an employee complement of 5,482,
19 correct?

20 A I'm not sure I have that number in front of
21 me.

22 Q You can refer to, if you have Effron's

1 direct, it's Schedule C21. I can find that, if
2 necessary.

3 MR. BERNET: What schedule?

4 THE WITNESS: C21.

5 MR. BERNET: Mark, you handed us C2.

6 Are you referring to C2?

7 THE WITNESS: Actually, the numbers on C2
8 reference the C2.1, so that's okay.

9 The number on that Mr. Effron uses for
10 employee level to calculate is salary and labor
11 adjustment is 5,488.

12 Q Here's the proper schedule.

13 Referring to the top of that schedule,
14 is it, indeed, 5,482?

15 A 5,482 on Schedule C2.1.

16 Q Thank you.

17 And this 5,482 figure was based on the
18 six-month average for the period ending
19 September of 2005, correct?

20 A Yes, that what Mr. Effron says, yes.

21 Q Do you have any reason to doubt this
22 statement?

1 A No.

2 Q As of September 2005, the actual full-time
3 equivalent employee level was less than the 4,000 --
4 the 5,482, correct?

5 A If we're referring just to the number of
6 employees, yes.

7 Q I'm referring to the actual full-time
8 equivalent employee level.

9 Would you agree that the number in
10 September 2005 was less than the 5,482?

11 MR. BERNET: You are saying on a date certain
12 in September?

13 MR. KAMINSKI: As of September 2005.

14 MR. BERNET: That point in time. Okay.

15 THE WITNESS: I'm confused are we at a point in
16 time in September or the six-month number?

17 BY MR. KAMINSKI:

18 Q A point in time number, if --

19 A I believe then --

20 Q Sorry. Go ahead.

21 A I was going to ask for a clarification.

22 Are you asking if that point-in-time

1 number was less than the full-time equivalent number
2 at what other point in time?

3 Q This might go a little bit quicker. Hold
4 on.

5 Do you have --

6 MR. BERNET: Is it in Efron's testimony?

7 MR. KAMINSKI: It's actually -- the best place
8 to look is the AG Cross-Exhibit 2.

9 BY MR. KAMINSKI.

10 Q Do you have that? If not we've got some
11 over here.

12 A I have it.

13 Q If you refer to the first page of the
14 attachment.

15 A I have it.

16 Q Would you agree that as of September 2005,
17 the actual full-time equivalent employee level was
18 less than 5,482?

19 A Yes, the number says 5,462 full-time
20 equivalent for September of 2005.

21 Q We are now in March of 2006.

22 Has Company presented any evidence in

1 the record with the number of temporary vacancies
2 existing in the six months ending September of 2005
3 have actually been filled by permanent employees?

4 A Well, I think that the AG Cross-Exhibit 2,
5 I believe you referenced it as Page 1 of that
6 attachment, shows by December 2005 we have filled at
7 least 20 of those since September of 2005 is the
8 number of full-time equivalents -- I'm sorry -- 10 of
9 the number of full-time equivalents run from 5,462 to
10 5,473 and was as high as 5,489 in November of 2005.

11 So, yes, I would say there's evidence
12 that say during 2005 the vacant positions have been
13 filled.

14 Q In making that statement, you are comparing
15 the point in time, September of 2005 to September
16 2005 point in time?

17 A I'm sorry.

18 I was just comparing the September '05
19 point in time to the following months of 2005.

20 But I think the point of my response
21 is that this attachment itself shows that Company
22 does indeed hire positions and have vacant positions

1 in any given month, and that number can go up or down
2 and this attachment clearly shows that.

3 Q Can you cite to any time in the last
4 two years where ComEd did not have positions vacant?

5 A I wouldn't be knowledgeable of that number,
6 but it would be my guess that there are always vacant
7 positions open at any particular point in time
8 including within the test year.

9 Q Have you relied on any evidence in the
10 record that the number of vacant positions in the
11 six months ending 2005 was abnormally high?

12 A I would have no comparable basis to make a
13 distinction if it was higher or lower than normal,
14 whatever normal is.

15 Q Could you refer to your rebuttal at Page 44
16 please.

17 A I have it.

18 Q Beginning on Line 971, you address the
19 treatment of severance costs incurred in 2004,
20 correct?

21 A I do.

22 Q You describe two different kinds of

1 severance costs, correct?

2 A I do.

3 Q Recurring and event related?

4 A That's correct.

5 Q With regard to severance costs related to a
6 specific event, the Company booked \$21 million of
7 expenses in 2004, correct?

8 If you refer to Page 46 at Lines 1011
9 to 1017. I believe it's addressed there.

10 A Thank you. Let me make sure everything is
11 there.

12 I believe this would be the test-year
13 expenses for the second type of severance cost that I
14 refer to, and that would be \$21 million.

15 Q These \$21 million in severance costs were
16 related to the Exelon Way program, correct?

17 A Yes, they were.

18 Q Would you refer to Schedule 16 of your
19 rebuttal.

20 A I have it.

21 Q Looking at Page 2 of that.

22 A I have it.

1 Q Does this schedule indicate that total
2 Exelon Way severance cost for 2003 and 2004 were
3 approximately \$158 million?

4 A That seems close, yes. I believe it's 158.

5 Q This schedule also indicates that the
6 savings associated with the Exelon Way program by the
7 end of 2006 will be 211 million, correct?

8 A Through the end of 2006?

9 Q Correct.

10 A Yes.

11 Q Thank you.

12 So by the end of 2006, the Exelon Way
13 savings will be greater than the severance cost,
14 correct?

15 A Not only through 2006, but throughout the
16 life of the expected savings of Exelon Way, yes.

17 Q So you agree to both; by the end of 2006
18 and beyond?

19 A As that Schedule 16, Page 2 shows, there's
20 an additional 2000 -- there's an additional savings
21 in 2007 for the Exelon Way program of another 75
22 million.

1 And those savings will continue as
2 long as those efficiencies are retained within the
3 business. And each additional year of savings comes
4 at no additional cost from that, which the 158
5 million that you referred to earlier incurred in 2003
6 and 2004.

7 Q Okay. Just so I make sure the record is
8 clear, by the end of 2006, the Exelon Way savings
9 will be greater than the severance costs, correct?

10 A Yes, they will.

11 Q Thank you.

12 Please refer to what has been marked
13 as AG Cross-Exhibit No. 3, ComEd's response to Staff
14 DR TEE 15.07.

15 Are you familiar with this response?

16 A I am.

17 Q This request asks the Company to provide
18 details of any cost improvement program such as the
19 Exelon Way program that the Company anticipates in
20 the next five years, correct?

21 A It does.

22 Q Other than staff reductions associated with

1 the Exelon PSEG merger, the Company did not cite any
2 other specific events that would entail severance
3 costs, did it?

4 A Any significant events through which
5 period?

6 Q You agreed earlier that it was -- the
7 question was regarding providing details of any cost
8 improvement program, such as the Exelon Way program
9 that the Company anticipates in the next five years.

10 Bearing that in mind, other than staff
11 reductions associated with the Exelon PSEG merger the
12 Company did not cite any other specific events that
13 would entail severance costs, did it?

14 A There are no formal plans for a program
15 similar to Exelon Way on the boards that I'm aware of
16 right now, no.

17 Q The Company is not proposing to include any
18 savings from Exelon PSEG merger in the revenue
19 requirement in this case, correct?

20 A That is correct.

21 Q We're done with that document.

22 Could you be refer to your surrebuttal

1 at 39.

2 A I have it.

3 Q Specifically at Lines 881 through 882, you
4 assert that Mr. Effron's stated reason for using 2001
5 through 2005 five-year average to calculate the
6 general activity severance cost is that the
7 Commission already allowed recovery of the 2000
8 severance cost, correct?

9 A That's what I understand his reasoning to
10 be.

11 Q That was not the only reason that
12 Mr. Effron provided for using the 2001 through 2005
13 year average. I'm sorry. Let me state that again.

14 That was not the only reason that
15 Mr. Effron provided for using the 2001 through 2005,
16 five-year average, correct?

17 MR. BERNET: Do you have a cite to Effron's
18 testimony?

19 MR. KAMINSKI: Certainly.

20 BY MR. KAMINSKI:

21 Q Mr. Effron cited three reasons for using
22 2001 through 2005, five-year average looking at

1 Effron Rebuttal Page 15, 3 through 10.

2 A He does give three reasons. One of which
3 is post-dates even 2005. So I'm not sure what
4 relevance that may have, although Mr. Effron believes
5 it does.

6 The other is simply because he
7 believes that one period is more recent than another
8 period.

9 Q Specifically, that is that the years 2001
10 through 2005 is a more recent five-year period than
11 the 2000 through 2004 five-year period used in your
12 rebuttal testimony?

13 A Right.

14 Q The Company is forecasting zero general
15 activity severance cost force the years 2006 and
16 2007, correct?

17 You can refer to your Exhibit 19
18 Schedule 16, Page 1.

19 A Exhibit 19, Schedule 16, Page 1, correct?

20 Q Correct.

21 A Did I understand your question to be that
22 we are forecasting for 2006, 2007, zero severance

1 costs?

2 Q Yes.

3 A I'm not seeing any figures for 2006 or 2007
4 nor any indication to a forecast number on this
5 schedule.

6 Q This schedule does refer to salary
7 continuing severance costs, correct?

8 A It does.

9 Q And in Line 1, under normal schedule, that
10 would be Column E, there is actually a negative
11 148,000 number, correct?

12 A That's correct.

13 Q And in Line 7, which is referred to as
14 2005, there is no number at all under that column,
15 correct?

16 A That's correct.

17 Q And that column is referring to the general
18 activity severance cost, correct?

19 A That's correct.

20 Q Could you refer to your surrebuttal at
21 Page 40 please.

22 A I have it.

1 Q You address severance costs related to the
2 Exelon Way program there, correct?

3 A I do.

4 Q The cost associated with the Exelon Way
5 program were complete in 2004, correct?

6 A For all intents and purposes, it was, yes.

7 Q Just to be clear, all of the specific event
8 severance costs that you refer to in your testimony
9 are related to the Exelon Way program, correct?

10 A I probably missed the first part of that
11 question.

12 Q All -- you refer to two different kinds of
13 severance costs in general and specific event?

14 A I do. Right.

15 Q All of the specific event severance costs
16 are related to the Exelon Way program, correct?

17 A During this time period that I'm reviewing
18 both in the testimony and in the schedule that we
19 referred to, yes.

20 Q And Exelon was created by a merger of
21 Commonwealth Edison and Philadelphia Electric
22 Company, correct?

1 A The Exelon entity?

2 Q Yes.

3 A Yes.

4 Q Was that an answer in the affirmative?

5 A You said, the Exelon entity was created as
6 a part of the merger in 2000. And my answer was yes.

7 Q And the severance costs were incurred in
8 2003 and 2004, correct?

9 A Yes.

10 Q In the past, hasn't the Commission
11 disallowed the recovery of severance costs, a cost
12 that will not be incurred on an ongoing basis, and
13 these costs are a product of the merger?

14 A I believe we made a leap of assumptions
15 that because the program was called Exelon Way, it
16 was, in fact, a program that was specifically
17 undertaken and specifically addressed issues and
18 activities that were due because of the merger.

19 The Exelon Way is just the name of the
20 program. The Exelon Way program is not merger
21 savings.

22 Q You do, however, agree that the Commission

1 disallowed the recovery of severance costs and such
2 cash costs will not be incurred on an ongoing basis,
3 and these costs are a product of a merger, correct?

4 MR. BERNET: Are you referring to a specific
5 docket?

6 MR. KAMINSKI: You can refer to the final order
7 of 01-0432. I have the page, if you want.

8 MR. BERNET: That would be great.

9 BY MR. KAMINSKI:

10 Q Referring to Page 34.

11 MR. BERNET: So this document is in the IP rate
12 case?

13 MR. KAMINSKI: Correct.

14 THE WITNESS: The Commission order there says
15 that very specific to the IP case and the evidence in
16 that proceeding, the cost incurred, the severance
17 cost incurred, directly related to the merger would
18 be disallowed.

19 I don't understand that to be what
20 we're talking about here because Exelon Way program,
21 as I said, is not a merger savings program. It's a
22 cost-initiative savings program.

1 The Commission, as I indicate in my
2 surrebuttal testimony, and perhaps even my rebuttal,
3 since the filings of both the IP case and ComEd's
4 docket in 2001, Part 285, the requirement rules are
5 very specific, that a the Company can, indeed,
6 request costs to achieve savings emanating from a
7 cost-savings initiative program.

8 Q Are you suggesting that absent the merger
9 of Commonwealth Edison and Philadelphia Electric
10 Company that a program like Exelon Way would have
11 been conducted by ComEd?

12 A I can't say with certainty, but as an
13 employee at ComEd for 32 years, and of those 32 years
14 we probably have had a cost-savings programs for at
15 least half of those years.

16 MR. KAMINSKI: Thank you.

17 No further questions.

18 I'm sorry. One thing I forgot.

19 Hold on one second please.

20 THE WITNESS: Sure.

21 MR. KAMINSKI: I'm done.

22 Thank you. I'm not going to offer

1 that into evidence. I've got what I want in the
2 record.

3 JUDGE DOLAN: Okay. What do you show as AG
4 Cross-Exhibit No. 1, was that the first piece of
5 paper you gave us?

6 MR. KAMINSKI: That was in relation to
7 Mr. Clark's testimony, cross-examination. It was the
8 preamble.

9 JUDGE DOLAN: Okay. All right. I wanted to
10 make sure I have it on the record.

11 Thank you.

12 MR. KAMINSKI: Thank you.

13 MS. SPICUZZA: Good morning, your Honors.
14 Marie Spicuzza, Assistant State Attorney, Cook County
15 State's Attorney Office.

16 May I request a quick break. We need
17 to talk to counsel for ComEd. I may be able to
18 eliminate some cross? For like 5 minutes?

19 JUDGE DOLAN: That's fine.

20 We will take a 5-minute break and come
21 back at 10:00 o'clock.

22

1 (Whereupon, there was a
2 change of reporter.)

3 JUDGE DOLAN: All right. We're going to go
4 back on the record now.

5 Mr. Reddick, are you ready to proceed?

6 MR. REDDICK: Yes, your Honor.

7 CROSS-EXAMINATION

8 BY

9 MR. REDDICK:

10 Q Good morning, Mr. Hill. Conrad Reddick for
11 the Illinois Industrial Energy Consumers.

12 A Good morning.

13 Q I have five yes-no questions.

14 A I'll do my best.

15 Q And a longer list of non yes-no questions.
16 Some of my questions use the phrase \$3 million
17 figure, and by that I mean the \$3,182,000 figure that
18 you used in your direct testimony.

19 Are you familiar with that?

20 MR. BERNET: In what context?

21 THE WITNESS: Which item?

22 MR. REDDICK: Q Anytime I say it.

1 MR. BERNET: He'll be familiar -- that's a
2 number he uses in his testimony?

3 THE WITNESS: I understand that you'll round it
4 up to 3 million. That's fine.

5 MR. REDDICK: Q I don't think my questions are
6 affected by the 3,330,599 correction that you noted
7 in your surrebuttal testimony.

8 A (Inaudible).

9 THE REPORTER: I'm sorry. I missed your last
10 answer.

11 THE WITNESS: I said is it related to the rider
12 ECR.

13 MR. REDDICK: And I said yes.

14 Q In fact, my questions do relate to the
15 environmental remediation costs.

16 Does the \$3 million figure for
17 environmental remediation expenses that you propose
18 to remove from test year operating expenses for
19 recovery through rider ECR accurately represent the
20 2004 test year expenses on ComEd's books?

21 MR. BERNET: Conrad, are you referring to the
22 surrebuttal testimony?

1 MR. REDDICK: Correct.

2 THE WITNESS: The about \$3 million we're
3 speaking of is the amount recorded on 2004 operating
4 expenses due to the ComEd accounting policies with
5 regard to how such expenses are recorded, yes.

6 MR. REDDICK: Q So the answer is yes?

7 A Yes, following ComEd's accounting policies,
8 yes.

9 Q Does ComEd's part 285 filing show the
10 \$11,577,201 amount provided in your surrebuttal
11 testimony as ComEd's environmental remediation costs
12 for the test year?

13 A Just so everyone is clear, the 11,500,000
14 number is the -- the actual expenditure is made in
15 2004 for these types of activities, and the actual
16 expenditure activities for 2004 were 11 million 5
17 because ComEd's accounting policies, as we just
18 talked about in the last question and answer --

19 Q Mr. Hill, I appreciate we want the
20 witnesses to have an opportunity to explain, but
21 you're getting a little bit -- my only question was:
22 Does your part 285 filing show that number as the

1 environmental remediation cost?

2 A The part 285 schedules that determine
3 operating expenses for the revenue requirement, no, I
4 am unfamiliar if any of the part 285 schedules that
5 deal with a lot of other issues if the number would
6 be in there or not. I don't recall that it is, but
7 it is certainly not in any part 285 B schedule, C
8 schedules, E schedules that determine the
9 requirement.

10 Q Is the approximately \$3 million figure that
11 you propose to remove from test year costs for rider
12 ECR recovery the amount that is currently being
13 recovered through ComEd's base rates for
14 environmental remediation costs?

15 A Base rates meaning base bundled rates, the
16 current DST rates? We have a lot of current base
17 rates out there.

18 Q DST.

19 A I would suspect the \$3 million is not being
20 currently recovered under the current DST because, as
21 I recall, the Commission's order in 01-0423, what is
22 built into the current DST rates, is an estimate of

1 an ongoing annual amount that was determined in that
2 case which was higher than
3 \$3 million. But the \$3 million is specific to a
4 change in the reserve methodology on a going forward
5 forecast basis. So it's hard for me to say it is
6 being recovered under the current DST knowing that \$3
7 million is actually an estimate of a future event. I
8 guess my answer would be no.

9 Q Okay. In the 2004 test year, did ComEd use
10 reserve accounting for its environmental remediation
11 cost?

12 A It did.

13 Q And I think the answer to this question
14 follows from your previous answer but let me ask you
15 just to be sure.

16 Does ComEd's use of reserve accounting
17 while recovering actual annual expenditures through
18 the base rates mean that environmental remediation
19 costs included in rates are different from the test
20 year environmental remediation costs on ComEd's
21 books?

22 A I would -- I would generally say --

1 Q Could you give me a yes or no and then
2 explain?

3 A Sure.

4 MR. BERNET: Could we have the question read
5 back.

6 THE REPORTER: Could you repeat it, please.

7 MR. REDDICK: I can repeat it.

8 Q Does ComEd's use of reserve accounting
9 while recovering actual annual expenditures through
10 base rates mean that the environmental remediation
11 costs included in rates are different from the test
12 year environmental remediation costs on ComEd's
13 books?

14 A Yes. But I do need to explain that, if I
15 may.

16 Q Go ahead.

17 A In theory over time they will be the same
18 recovery because the reserve methodology, all it does
19 is it estimates and records an expense, the
20 environmental remediation activity at the time that
21 it is first certain and at the first time that it is
22 estimable. That's what reserve accounting does. So

1 it actually moves into expense the recognition of
2 that cost prior to the time it will actually be
3 expended.

4 With the current DST rates such as
5 they are now, to recover the costs as they are
6 incurred, then obviously that's different in a timing
7 setting from any one cost to be recovered through
8 rates. So over that -- over an expected time period,
9 the recovery will be the same.

10 Q What's the expected time period?

11 A At least in the last DST proceeding, the
12 time period that was kind of put forward was three or
13 four years into the future.

14 Q Were they, in fact, the same?

15 A I don't know the answer to that question
16 because I don't know for '01, '02, or '03 what the
17 reserve -- what the expenses due to the reserve
18 accounting policy were.

19 MR. REDDICK: Thank you.

20 JUDGE DOLAN: I know Mr. Jolly had some
21 questions, and it looks like AG must still be working
22 out their resolutions.

1 CROSS-EXAMINATION

2 BY

3 MR. JOLLY:

4 Q Thank you.

5 Good morning, Mr. Hill. My name is
6 Ron Jolly. I'm an attorney representing the City of
7 Chicago this morning.

8 A Good morning.

9 Q I'd like to start by asking you some
10 questions that follow up on some questions that
11 Ms. Scarsella on behalf of the Commission staff asked
12 you last night.

13 In particular you testified in
14 response to some questions that Ms. Scarsella asked
15 you regarding non-MGP costs.

16 Do you recall that?

17 A I do.

18 Q And as I recall, you referred to your
19 Exhibit 19 which is your rebuttal testimony, schedule
20 18 which is attached to your rebuttal testimony; is
21 that right?

22 A Yes.

1 Q And you testified that the costs that are
2 set forth in Exhibit 19, schedule 18, you testified
3 that those are volatile costs; is that right?

4 A In my opinion non-MGP costs would be
5 classified in my view as volatile costs, yes.

6 Q I think you also said they're
7 unpredictable, they're unstable, and they're
8 difficult to forecast.

9 Is that a fair assessment of your
10 testimony?

11 A That is.

12 Q Would you agree that storm restoration
13 costs are also volatile costs?

14 A They are certainly more volatile than most,
15 and I would say that they certainly are difficult to
16 forecast from one year to the next. They're not
17 unpredictable. What you do know is they will occur.
18 But I think they're unstable in amount oftentimes and
19 they are difficult to forecast with any degree of
20 certainty one year to the next.

21 Q Well, with respect to non-MGP costs, would
22 you agree that -- as I understand what you've said,

1 you said that storm restoration costs are not
2 unpredictable in the sense that they're certain to
3 occur.

4 Would you agree that that same
5 statement applies to non-MGP costs as well in your
6 opinion?

7 A We certainly know that there are some that
8 are going to occur, as I indicated to staff's
9 questioning me yesterday. I think what I did
10 indicate with non-MGP costs is about the occurrence
11 of those is that they are driven oftentimes by
12 changes in public sentiment, legislative action,
13 changes in governmental limitations. And so while
14 you know that they're going to occur, you don't
15 certainly know to what level they are going to occur.
16 And they can change quite significantly at any one
17 point in time.

18 Q That's also true of storm restoration
19 costs; is that right? ComEd doesn't know when a
20 storm will occur?

21 A No, nor do we know the severity of the
22 storm.

1 Q And you can't control when storms will
2 occur?

3 A To some degree you can control storm costs,
4 but not totally.

5 Q You can't control when a storm itself will
6 occur?

7 A That is absolutely true.

8 Q In fact, are you familiar with
9 Mr. DeCampli's direct testimony in this case?

10 A I've read it.

11 Q Are you aware that at Page 27 beginning on
12 line 561 Mr. --

13 MR. BERNET: Hold on. Can we get that.

14 MR. JOLLY: Sure. It's Mr. DeCampli's direct
15 testimony, Exhibit 4.0 at Page 27, beginning at line
16 561.

17 MR. BERNET: What was that line number again?
18 I'm sorry.

19 MR. JOLLY: 561.

20 MR. BERNET: What was the question?

21 MR. JOLLY: There's no question. I was just --

22 MR. BERNET: We're there.

1 MR. JOLLY: Q Beginning there, Mr. DeCampli
2 discusses capital costs associated with a wind storm
3 that occurred July 5th through 8th in 2003; is that
4 correct?

5 A He does.

6 Q And according to his testimony at line 585,
7 the wind storm increased ComEd's capital costs by
8 over \$10 million.

9 Do you see that?

10 A Line 585?

11 Q 585 on my copy anyway.

12 A Okay. I found the lines. It's a different
13 line item number that I have, but it says the July
14 2003 wind storm capital costs added 10,218,000, if
15 that's the number you're referencing?

16 Q That is.

17 A Yes.

18 Q ComEd, you didn't -- ComEd wasn't able to
19 predict that that wind storm would occur, right?

20 A No.

21 Q And you --

22 A That particular one, no.

1 Q And you weren't able to predict with any
2 certainty the amount of costs that would be
3 associated with that wind storm or any other wind
4 storm, for that matter?

5 A We don't forecast expected storm
6 restoration costs by storm. We do have a forecast --
7 capital forecast by year for expected storm
8 restoration activities.

9 Q And how much is ComEd requesting be
10 included in rates for storm restoration activities in
11 this case? And I apologize --

12 MR. BERNET: You're talking about all storm
13 restoration activities, capital expense, everything?

14 MR. JOLLY: Q I was talking about storm
15 restoration costs as part of --

16 A Just the expense component?

17 Q Right.

18 A Hold on. Okay.

19 Referring to ComEd Exhibit 5.2,
20 appendix B, there's a schedule reference WPC dash
21 2.5,
22 Page 1, it shows the requested actual storm

1 restoration expenses including -- included in 2004
2 jurisdictional O and M is \$18,963,000.

3 Q Okay. Thank you. That's all I have on
4 that matter.

5 You also testify regarding
6 uncollectibles expenses; is that correct?

7 A I do.

8 Q An uncollectible expense, is that also
9 sometimes referred to as bad debt?

10 A It's often used synonymously, yes.

11 Q Are you aware of any ongoing proceedings
12 that ComEd is involved in to modify Commission rules
13 that would reduce its bad debtor expense?

14 A I'm not familiar with any Commission
15 proceeding that the company is involved in.

16 Q You're not familiar with Docket 05-0237?

17 A I'm afraid not.

18 MR. JOLLY: Okay. That's all I have. Thank
19 you.

20 MS. SPICUZZA: Good morning, your Honor. If I
21 could ask your indulgence, I think we're almost at a
22 decision point -- or aren't we yet.

1 (Discussion off the record.)

2 CROSS-EXAMINATION

3 BY

4 MS. SPICUZZA:

5 Q Good morning. Assistant State's Attorney
6 Marie Spicuzza on behalf of the Cook County State's
7 Attorney's Office.

8 Thank you for allowing us to take a
9 brief break.

10 Are you ready to proceed?

11 A Sure.

12 Q Mr. Hill, are you familiar with
13 Mr. McGarry's position with respect to CWIP and the
14 double counting on this issue in this case?

15 A Yes, I am.

16 Q And we've discussed resolving this issue
17 addressing Mr. McGarry's concerns and I believe also
18 staff and Mr. Griffin's concerns, correct?

19 A Yes.

20 Q And could you describe what our agreement
21 is for the record, please.

22 A Certainly, as I understand it. The --

1 Mr. McGarry and also staff witness Mr. Griffin have
2 concerns about the double counting. We go back and
3 forth on the theories and the concepts, and there's
4 been some discussions about what is the real CWIP
5 number that is appropriate for rate base in this
6 proceeding looking at the data that ComEd has
7 submitted, looking at Mr. McGarry's concerns about
8 variability in such number and is there a CWIP rate
9 base number or is there a pro forma additions number,
10 et cetera.

11 As I understand it based on the issues
12 and the variability around what is the quantification
13 of an appropriate number for CWIP and rate base, it's
14 my understanding that Mr. McGarry, Mr. Griffin, and
15 myself believe that it would be fair and appropriate
16 for purposes of this proceeding to use approximately
17 70 percent of the ComEd requested CWIP balance which
18 -- I'm sorry -- 70 percent of the 2005 trial balance,
19 CWIP balance, which I believe was \$58.8 million. So
20 70 percent of that number, if my math is right, is
21 the approximate value of CWIP and rate base of
22 41,160,000.

1 Q Thank you, Mr. Hill.

2 Turning to a separate -- a different
3 issue on rate case expense, is it ComEd's position
4 that they should recover from ratepayers those
5 amounts that are originally filed as known and
6 measurable at the time of the filing, or is updating
7 the filing appropriate in circumstances where new
8 data could provide better information?

9 A Well, it is a pro forma adjustment in that
10 regard. It's a forecast of what we expected to be
11 those costs at the time that we filed. Typically
12 parties have in past cases -- have not necessarily
13 wanted to go with our initial forecast because as the
14 case goes on, things within the case change. The
15 issues are -- become more developed, they become more
16 complex, less complex. You may need a witness for
17 this purpose versus that purpose. So in prior
18 proceedings, typically those expenses have been
19 updated during the course of the proceeding.

20 The issue I suppose I have with how it
21 was handled in past proceedings is that it was
22 limited to only the actual expenses incurred up to

1 that date that the record evidence was closed in the
2 proceeding, which I feel to be a bit unfair that
3 there certainly will be incurred costs for the
4 proceeding after that point in time. We all know
5 there's briefings and all the like. And not all the
6 actual bills even are paid at the close of the
7 proceeding which is the last day of cross-examination
8 typically and so we don't have all the actual bills.

9 So my proposal has been, my
10 surrebuttal, if the Commission and parties do not
11 want to accept our estimate that we file as known and
12 measurable as a pro forma adjustment that we use the
13 latest actual plus forecast at that point in time
14 through the end of the case.

15 Q Thank you.

16 Are you aware of Mr. McGarry's
17 position regarding the rate case expenses for this
18 case as indicated in Mr. McGarry's rebuttal?

19 A It's been a while since I read it, but at
20 one time I certainly did understand it.

21 Q Could you summarize what your understanding
22 is? I can give you a cite if that helps.

1 A Please.

2 Q It's Mr. McGarry's rebuttal at Page 19,
3 lines 381 to 446.

4 A 381?

5 Q Lines 381 to 446.

6 A I'm refreshed.

7 Q Could you summarize what your understanding
8 of Mr. McGarry's position is, please.

9 A I'll do my best. I believe it is to have
10 the Commission allow recovery for the known or actual
11 costs through the proceeding, whenever that last
12 update occurs, and then include a projection of the
13 remaining project costs, which is where Mr. McGarry's
14 projection is different from ComEd's.

15 Q Is there anything in Mr. McGarry's position
16 that suggests he's advocating less than a hundred
17 percent recovery of actual expenses incurred to date?

18 A I certainly don't think from the reading of
19 Mr. McGarry's testimony that that is his intention.
20 I believe that, as I look at the formula that he is
21 projecting to estimate, I'm not quite certain that
22 that forecasting technique or that projection

1 technique will not sufficiently recover a hundred
2 percent of ComEd's expenses.

3 Q Would the company oppose any recommendation
4 which suggested that only actual rate case expenses
5 be recovered in a three-year amortization?

6 A Only actual expenses as measured at what --
7 actual expenses for the entire case through the end
8 of the case?

9 Q Yes.

10 A If would we oppose that?

11 Q Yes.

12 A If I'm understanding the question right,
13 that would essentially be a hundred percent of the
14 actual known costs of the case, we would not oppose
15 that.

16 Q In your surrebuttal testimony at lines 648
17 and 649, you state apparently Mr. McGarry --

18 MR. BERNET: Could you hold on one second,
19 please, until we get there.

20 What were the line numbers again?

21 MS. SPICUZZA: Lines 648 and 649. It's ComEd
22 Exhibit 36, surrebuttal of Mr. Hill.

1 THE WITNESS: I'm there.

2 MS. SPICUZZA: I'm going to strike that last
3 reference. Sorry to have you pull out your...

4 Q With the exception of Docket 99-0117, are
5 you aware of the Commission's precedence which have
6 excluded carrying charges for rate case expense?

7 A With the exclusion of which was the docket
8 you referenced?

9 Q The Commission's order in Docket 99-0117.

10 A I'm having trouble recollecting the last
11 ComEd order.

12 MR. BERNET: Do you have a copy of the order
13 with you?

14 MS. SPICUZZA: I don't. I'm sorry.

15 MR. BERNET: We might have a copy.

16 THE WITNESS: One second. I'm only trying to
17 remember the last time I might have it here.

18 MS. SPICUZZA: Q I believe there's a cite in
19 Ms. Hathhorn's testimony, and I can give you a
20 cite --

21 MR. BERNET: Hathhorn's direct?

22 MS. SPICUZZA: Yes. It's ICC Staff Exhibit 1.0

1 at lines 463 through the next page, 474.

2 MR. BERNET: Can we just see that.

3 MS. SPICUZZA: Do you want me to show him?

4 THE WITNESS: I was confused by your question
5 because you limited it to one case.

6 In my surrebuttal testimony on Page
7 27, beginning at -- I'm sorry, actually beginning at
8 line 599 through 634, I cite Docket 90-0196,
9 Docket No. 94-0065, Docket No. 99-0117, and
10 Docket No. 01-0423 where the Commission allowed rate
11 base recovery, you call it carrying charges, but a
12 return on those costs over varying amortization
13 periods, in all cases three years except one year was
14 a four year amortization period. Those were all
15 ComEd cases, by the way.

16 MS. SPICUZZA: Q Thank you. I have two other
17 areas that I just wanted to ask you a brief series of
18 questions about.

19 The first is procurement case expense.
20 Are you aware that the Commission has generally
21 excluded rate base treatment of unamortized portion
22 of rate case expenses?

1 A Of rate case expenses?

2 Q I'm sorry, of -- I'm sorry, of procurement
3 case expenses, excuse me.

4 (Record read as requested.)

5 MS. SPICUZZA: I'm going with withdraw that
6 question. I'm sorry.

7 Q Turning to uncollectibles, and I'm going to
8 give you a cite in your surrebuttal on Page 46 lines
9 1029 to 1032.

10 A I have it.

11 Q Thank you. You know well I am not a lawyer
12 and I am not rendering a legal opinion.

13 Mr. McGarry's evidence for such an adjustment does
14 not meet the criteria for known and measurable that
15 are generally used in these Commission proceedings.

16 Does ComEd work to adopt best
17 practices to reduce uncollectible expenses?

18 A I assume we do.

19 Q Does ComEd work to ensure that
20 uncollectible expenses are held to a reasonable
21 level?

22 A It's in our best interest to do so.

1 Q And ComEd would like its uncollectible
2 expenses to be reduced over time?

3 A Yes, with -- if I may, let's be clear that
4 uncollectible expense levels can take varying forms
5 in total dollars, in dollars per customer. So while
6 you can reduce one, you don't necessarily reduce the
7 other.

8 Q Mr. Hill, have you done any analysis to
9 refute Mr. McGarry's testimony on uncollectible
10 expenses?

11 A I didn't. I did review it, and I believe
12 for the purposes of what Mr. McGarry was attempting
13 to show as a result of his study, I find no reason to
14 disagree with the end result. How he applies the end
15 result is where I disagree.

16 Q But that's based on your opinion, not based
17 on analysis?

18 A Well, it's my opinion being an expert on
19 how data -- cost data translates into revenue
20 requirements should work. That's the foundation of
21 my disagreement.

22 Q I have one more question on CWIP, and then

1 I'm finished, your Honors.

2 The agreement that you described for
3 the record, that agreement is acceptable to the
4 company?

5 MR. BERNET: Can we go off the record for a
6 minute, please.

7 (Discussion off the record.)

8 MS. SPICUZZA: Q Mr. Hill, I'm not sure you
9 answered my last question.

10 The agreement that you described on
11 CWIP, C-W-I-P, that agreement is acceptable to the
12 company?

13 A Conditional on that the staff witness
14 Griffin also agrees to adjust back his 2005 pro forma
15 adjustment for the related CWIP adjustment to pro
16 forma additions.

17 MS. SPICUZZA: Thank you, Mr. Hill. I have no
18 further questions of Mr. Hill.

19 JUDGE DOLAN: Thank you.

20 MS. SPICUZZA: Counsel for CUB would like to
21 ask a couple questions, your Honors.

22 JUDGE DOLAN: Okay.

1 CROSS-EXAMINATION

2 BY

3 MS. SODERNA:

4 Q Mr. Hill, my name is Julie Soderna, and I
5 represent the Citizens Utility Board.

6 I'm going to refer back to the
7 uncollectibles expense issue that Ms. Spicuzza was
8 just discussing with you.

9 Are you familiar with ComEd and many
10 other utilities from Illinois filing a petition with
11 the Commission with regard to part 280 of the
12 Commission rules, requested changes of that part?

13 A Is this the docket Mr. Jolly asked me about
14 with respect to uncollectible practices or something?

15 Q Yes. I'm sorry.

16 A I answered I was not familiar with that
17 docket.

18 MS. SODERNA: Okay. That's all I have. Thank
19 you.

20 JUDGE DOLAN: I just -- I have that one
21 question that I don't think anybody has addressed.
22 Do you want me to ask him before you go back on

1 redirect?

2 MR. BERNET: I don't recall what the question
3 is.

4 JUDGE DOLAN: I don't think you were here. I
5 asked Mr. Costello --

6 MR. BERNET: Yes, yes.

7 EXAMINATION

8 BY

9 JUDGE DOLAN:

10 Q Mr. Hill -- and, again, this is referring
11 to the pretrial memorandum, and it might be discussed
12 in more detail somewhere else.

13 But under general plant
14 functionalization, the amount that's on 18 of your
15 pretrial memo, you talk about general plant includes
16 assets. Now you have the general labor allocator
17 listed as an asset.

18 Can you explain how the labor
19 allocator can be an asset? Does that sound
20 reasonable or is that --

21 MR. BERNET: Is there a specific line you're
22 referring to?

1 JUDGE DOLAN: Q At the bottom of 18 you got
2 ComEd has functionalized its general and intangible
3 plant by directly examining the component items and
4 assigning them to rate bases based on their actual
5 function, using direct assignment where feasible.
6 And then going on to the next page you say, general
7 and intangible plant was not available, allocated the
8 costs using a cost-causative allocation factor,
9 including the general labor allocator.

10 A Yeah. It's maybe sentence structure there.
11 General labor allocator is just the methodology used
12 to functionalize. There is no general labor
13 allocator asset. What that section is referring to
14 is that in any direct assignment study as I indicated
15 in some previous cross-examination over the last
16 couple days, you do your absolute best to get all the
17 data that allows you to determine the cost-causative
18 nature of that particular plant based on your data
19 records, et cetera.

20 There will be some instances where
21 that is just not feasible, and therefore you have to
22 find another method to allocate or functionalize that

1 component of general plant.

2 There is at least one instance, maybe
3 two, I have to go through my work papers, where in
4 the general plant direct assignment study we
5 conducted there were two relatively minor general
6 plant accounts where we did use the general labor
7 allocator, which again is just where were ComEd's
8 labor costs charged during 2004. And we used that
9 relationship to then functionalize that one component
10 of general plant.

11 So general labor allocator is not an
12 asset. It's a means to obtain the functionalization
13 of the asset in certain discrete categories.

14 JUDGE DOLAN: All right. Thank you.

15 We'll go ahead to your redirect.

16 MR. BERNET: Can we have a few minutes, please.

17 JUDGE DOLAN: Certainly.

18 (Whereupon, a short break was taken.)

19 JUDGE DOLAN: We're back on the record.

20 Mr. McGarry, I'll just remind you you're still under
21 oath, okay.

22 THE WITNESS: Yes, sir.

1 (Witness previously sworn.)

2 MICHAEL McGARRY,
3 recalled as a witness herein, having been previously
4 sworn, was examined and testified as follows:

5 FURTHER DIRECT EXAMINATION

6 BY

7 MR. RATNASWAMY:

8 Q Were you here during the cross-examination
9 of Mr. Hill by Ms. Spicuzza?

10 A Yes, I was.

11 Q Were you here during the portion of that
12 cross-examination where he testified regarding a
13 proposed reasonable resolution of the concerns that
14 you had raised and Mr. Griffin had raised and
15 Mr. Hill had addressed regarding whether or what
16 extent there was a double count between ComEd
17 proposed pro forma addition and its addition to rate
18 base CWIP?

19 A Yes, I was.

20 Q Do you agree based on the testimony of the
21 three witnesses and the variability identified CWIP
22 cost in your testimony that a reasonable resolution

1 of that is that the amounts should be included in the
2 pro forma additions and that the CWIP amount to be
3 included in rate base should be reduced to 70 percent
4 of the 2005 level leading to an addition to rate base
5 of \$41.16 million?

6 A Yes.

7 MR. RATNASWAMY: Thank you.

8 MS. SPICUZZA: I'd like to ask leave -- I think
9 that this agreement may affect some of the schedules
10 of Mr. McGarry -- attached to Mr. McGarry's
11 testimony, his direct and rebuttal. I'd like to ask
12 leave to file the corrected schedules flowing this
13 corrected CWIP number into those schedules.

14 JUDGE DOLAN: I assumed that both parties were
15 going to be filing those, so there's no problem.

16 MS. SPICUZZA: I'm told this will also affect
17 the new business adjustment.

18 MR. RATNASWAMY: On staff's part, Mr. Griffin
19 will be testifying later in the hearing.

20 MS. SPICUZZA: Thank you.

21 JUDGE DOLAN: All right. Thank you,
22 Mr. McGarry.

1 MR. RATNASWAMY: Q I'm sorry. And you're
2 referring to the revenue credit number changing from
3 12 point something million to 13 point something
4 million?

5 A That's correct. That will flow through on
6 my schedules as well.

7 MS. SPICUZZA: I have one more clean up for the
8 record. I'm sorry. There's one schedule that we
9 needed to withdraw that we neglected to mention.
10 It's on Mr. McGarry's rebuttal testimony, and it's
11 Exhibit CUB CCSAO City of Chicago 5.01 and it's
12 schedule MJM5 and it was filed -- originally filed
13 February 27, 2006. So we would request leave to
14 enter a corrected copy and withdraw that schedule.
15 It's related to the cost removals issue.

16 JUDGE DOLAN: We will note that for the record
17 that CUB, Cook County State's Attorney, and City of
18 Chicago 5.01 MJM schedule 5 is withdrawn.

19 MS. SPICUZZA: Thank you.

20

21

22

1 JUDGE DOLAN: Are we ready for redirect?

2 (Witness previously sworn.)

3 JEROME HILL,

4 called as a witness herein, having been previously

5 sworn, was examined and testified as follows:

6 REDIRECT EXAMINATION

7 BY

8 MR. BERNET:

9 Q Good morning, Mr. Hill.

10 A Good morning.

11 Q Mr. Hill, do you recall that Mr. Giordano
12 asked you several questions about the revenue
13 requirement in this case, right?

14 A He did.

15 Q And then he asked you several questions
16 about the revenues that ComEd recovers through rates,
17 right?

18 A He did.

19 Q Can you explain what a revenue requirement
20 is?

21 A Sure.

22 MR. BERNET: I'm showing Mr. Hill an exhibit

1 which I'll mark as ComEd Redirect No. 2.

2 (Whereupon, ComEd Redirect
3 Exhibit No. 2 was marked for
4 identification.)

5 MR. GIORDANO: I have to object to this. I
6 believe this is beyond the scope. There's plenty of
7 testimony in this case what a revenue requirement is.
8 You know, I don't think we need this -- this exhibit
9 to be presented in the record, and I think that it's
10 beyond the scope of our cross-examination.

11 MR. BERNET: I disagree. Mr. Giordano asked
12 questions about the revenue requirement. In order to
13 make Mr. Hill's testimony clear, I think it's
14 necessary for him to be able to explain what makes up
15 the revenue requirement and how ComEd recovers
16 revenues. I have also not offered this exhibit into
17 evidence at this point. But, you know, staff asked a
18 bunch of questions about the components of the
19 revenue requirement and the cross was clear to
20 distinguish the revenue from the revenue requirement.
21 So I think just for clarity of the record, it's
22 important -- all of this evidence is in the case.

1 MR. BRADY: I would join that objection because
2 he clearly explained himself during my cross.

3 MR. GIORDANO: And the other thing is if this
4 is -- it's beyond the scope. We're not
5 challenging -- it was clear in the cross what the
6 difference between revenues at current delivery
7 service rates and billing determinants. We're not
8 challenging that that is the way that ComEd is
9 proposing the revenue requirement in this case. That
10 was not part of the scope of the testimony.

11 MR. BERNET: I disagree. I think part of the
12 testimony was to suggest that ComEd was recovering
13 more through revenues than it would through a revenue
14 requirement.

15 JUDGE DOLAN: Okay. We're going to sustain the
16 objection so.

17 THE WITNESS: I'll be brief --

18 JUDGE DOLAN: No, you can't do that.

19 MR. BERNET: Q Mr. Hill, I'd like to direct
20 your attention to schedule A-3A1, which was filed
21 pursuant to part -- section 285.1015 in this case.
22 We have extra copies.

1 Can you tell us what this document is?

2 A Yes. The schedule is prepared in
3 compliance with the part 285 requirement to show
4 comparison of present and proposed rates; and as such
5 in this particular proceeding, Pages 2 through 11
6 calculate the revenue at present rates using 2004
7 test year billing units and the revenue that would be
8 produced at the current RCDS rates that would become
9 effective in June 2006.

10 Q So directing your attention to Page 2 of
11 that exhibit or of that schedule, do you see the
12 number at the bottom there, the 853471?

13 A Yes.

14 Q Does that represent what ComEd would
15 recover through revenues if all residential customers
16 were on delivery service and the revenue requirement
17 that is currently in effect stayed in place?

18 A Yes.

19 Q And then directing your attention to
20 Page 6 --

21 MR. BRADY: My I ask a point of clarification.
22 Is this supposed to be in response to Mr. Giordano's

1 questions or --

2 MR. BERNET: Yes.

3 MR. BRADY: Thank you.

4 MR. BERNET: Q On Page 6, you see that --

5 that's the rate -- revenue calculation relating to

6 lighting delivery service customers; is that right?

7 A Page 11?

8 Q No, Page 6.

9 A Yes.

10 Q And so at the bottom of that page, you see

11 the figure where it says total energy, and the number

12 is 21 billion 834236; do you see that?

13 A 21 million --

14 Q 21 million, I'm sorry.

15 That's the revenue that ComEd will

16 recover using the current revenue requirement from

17 lighting delivery service customers if the rates

18 didn't change; is that right?

19 A That's correct.

20 Q And then finally directing your attention

21 to the last number on Page 6 where it says total

22 company, do you see that number, 1 billion 579469,

1 that's the revenue that ComEd would collect from
2 customers if -- in total if the revenue requirement
3 didn't change in this case or if the revenue
4 requirement stayed the same; is that correct?

5 MR. GIORDANO: Objection, the question is not
6 clear. I'm not clear on whether you're talking about
7 the revenue requirement of 1.507 million or are you
8 talking about the rates, the June 2006 rates. Which
9 is it?

10 JUDGE DOLAN: Can you clarify your question,
11 please.

12 MR. BERNET: Sure.

13 Q Mr. Hill, this schedule is designed to do
14 what?

15 A It's designed to give the total revenue at
16 current rates assuming all customers are taking
17 delivery service rates in order to compare that to
18 what the comparable number would be under proposed
19 rates, the difference of the two being the requested
20 revenue increase in amount.

21 MR. GIORDANO: I would -- I'll withdraw that.

22 MR. BERNET: Q So the \$1,579,469,527 that's

1 listed on Page 6 of schedule A312 is not a revenue
2 requirement; is that right?

3 A It is not a revenue requirement. That
4 line, that final line on that schedule indicates that
5 it is simply a revenue number based on the test year
6 billing units multiplied by the current rates, and
7 that it would also, on that line, shows is a revenue
8 dollar per kilowatt hour which is identical,
9 identical to the dollar revenue per kilowatt hour
10 using the 2000 test year at a revenue requirement of
11 \$1507 million. So therefore it is a revenue
12 increase, and it is not any change. It is not
13 intended to be any change to a revenue requirement in
14 2004.

15 Q So in other words, the revenue that ComEd
16 collects is a function of the sales of the kilowatt
17 hours multiplied by the rates?

18 A Right. What this schedule shows is that
19 whether the revenue is computed in test year 2000
20 from the Commission's order or 2004 using the billing
21 units in 2004, the rates in effect in 2004, the
22 revenue collected based on the order in 01-0423

1 expressed as a revenue dollar per kilowatt hour is
2 exactly the same.

3 (Whereupon, there was a
4 change of reporter.)

5 Q Now, Mr. Hill, in connection with the
6 questions that staff counsel asked you, one of the
7 questions was, are you aware of any delivery service
8 rate case in Illinois, where the Commission adopted a
9 direct assignment approach with respect to general
10 and intangible plant, do you remember that?

11 A I do.

12 Q And do you recall in the -- what was the
13 docket number for the last rate case -- last Com Ed
14 rate case?

15 A Docket No. 01-0423.

16 Q And did the Commission use a direct
17 assignment approach to allocate intangible plant in
18 that case -- to use a direct assignment approach to
19 allocate intangible plant in that case?

20 A Did the Commission use direct assignment in
21 the last DST case to assign intangible?

22 Q Yes.

1 A No.

2 Q Mr. Hill, you recall Ms. Scarsella asked
3 you questions about Com Ed's divestiture of its
4 nuclear fossil plants. Do you recall that?

5 A Staff attorney asked me that, I'm not sure
6 who.

7 Q And they asked you if you agreed that
8 the -- that Com Ed's rates should not go up solely
9 because of the divestiture of that plant, do you
10 remember that?

11 A I do.

12 Q And why is it that you agree with that?

13 A Well, I agree because in general principle
14 if you do your cost causative functionalization
15 correctly, then a divestiture of one function
16 separate and distinct from delivery services would
17 create little or no change in the functionalization
18 of that plant on a going forward basis and, indeed,
19 the evidence in 01-0423 supports exactly my answer.

20 Q Do you recall how much general and
21 intangible plant was allocated to production in that
22 case?

1 A Under whose methodology?

2 Q Under staff's methodology?

3 A I do. It's included as Schedule 4 attached
4 to my rebuttal testimony. And if I may, I wouldn't
5 mind putting this on the board so we can all see and
6 understand what the numbers are. You'll have to bear
7 with me, I'm left handed and I'm not very good with
8 penmanship.

9 But in 01-0423, that's the docket
10 we're talking about, I'm going to use production, and
11 I'm going to use delivery services to show what
12 functional components those were in that case, under
13 varying methodologies.

14 The order which adopted the staff
15 methodology for direct labor assignment
16 functionalized, as shown on Schedule 4 of my rebuttal
17 testimony, I'm going to round it, \$775 million of
18 general and intangible plant to production. That
19 same order found that the delivery services component
20 of that same plant was 408 million.

21 Q So that means that when the allocation of
22 general intangible plant -- okay, can you tell us

1 what Com Ed proposed in that case?

2 A Certainly. Looking at that same schedule,
3 Schedule 4 to Exhibit 19.0, Com Ed proposed under its
4 direct assignment methodology the production, amount
5 functionalized to production, of 197 million. And
6 it's delivery services functionalization in that case
7 was 813 million. Just so we're all clear, the famous
8 405 million disallowance, then, is the difference of
9 these two numbers. That was the 405 million
10 disallowance of general intangible plant in that
11 order.

12 Q And the numbers that are --

13 MR. BRADY: I have to object at this point. I'm
14 not sure how this is clarifying the question, where I
15 had asked about whether he was aware of any other
16 cases that used direct assignment for G and I plant.
17 We are now just regurgitating what was in the 01-0423
18 order.

19 MR. BERNET: This is not responsive to that line
20 of questioning. This is responsive to the line of
21 questioning relating to the divestiture. In other
22 words --

1 MR. BRADY: What was that questioning, because I
2 guess I lost you.

3 MR. BERNET: Yeah, the line of questioning was
4 asking Mr. Hill whether or not rates should go up
5 solely as a result of the divestiture of the plants.

6 JUDGE DOLAN: So we're overruling the objection?

7 MR. BRADY: I'm withdrawing the objection.

8 THE WITNESS: So this is what we had in the
9 order, based on the labor allocation methodology,
10 this is what we had, Com Ed, proposed in direct
11 assignment. There was a divestiture, we all know
12 there was a divestiture.

13 So which methodology captures the
14 amount that was transferred over because of that
15 divestiture, such that that methodology, had it been
16 adopted, would have created little or no change in
17 revenue requirement going forward after the
18 divestiture. The amount that's stated in my
19 surrebuttal testimony, and I forget the lines right
20 now, but we'll get it for you, shows that -- in fact,
21 in my surrebuttal testimony it's on Page 15, Lines
22 314.

1 So what was transferred, what was
2 actually transferred? What was actually transferred
3 in a docket that the Commission and staff received
4 the journal entries and the Commission and staff
5 reviewed and approved such journal entries of the
6 transfer was, \$164 million.

7 BY MR. BERNET:

8 Q So Mr. Hill, that means when the transfer
9 actually occurred, \$164 million of production plant
10 was transferred; is that correct?

11 A 164 million of production, it was
12 production and it was BSC, but it was the total
13 amount transferred out of Com Ed's books for general
14 and intangible plant, that did not relate to any of
15 Com Ed's ongoing functions.

16 But the question, so should
17 divestiture solely change? The answer is no. And it
18 would not have changed had the Commission adopted Com
19 Ed's method. Rather, what happened was in last case,
20 by adopting the general labor allocator, the
21 Commission, based on whatever decision it made,
22 created a severe and significant reduction to Com

1 Ed's revenue requirement in that case due solely to
2 the divestiture.

3 And, therefore, the arguments that Com
4 Ed is now increasing its revenue requirement, due to
5 divestiture, is not correct. What it says is that
6 this has always been Com Ed's proper
7 functionalization of general and intangible plant and
8 to continue doing that, based on the book costs in
9 2004, for general and intangible plant, properly
10 functionalized, we are still at this number, not at
11 this number. And this number is not in any way,
12 shape or form, raising the revenue requirement due to
13 the divestiture.

14 Q And Mr. Hill, is staff proposing that a
15 certain portion of general and intangible plant in
16 this case be allocated to production?

17 A What staff is suggesting under, I believe,
18 the same context or at least as part of the same
19 context, is that we continue, we continue on a going
20 forward basis, this reduction, which is now modified
21 to 300 million rather than 400, but we continue going
22 forward with this. And so what we continue going

1 forward with is a reduction in revenue requirement
2 due solely to the divestiture.

3 Q Now, Mr. Hill, do you remember
4 Ms. Scarsella asked you questions about the
5 volatility of A and G costs compared to non-MGP
6 costs?

7 A She did.

8 Q And do you believe that that is an
9 appropriate comparison in connection with Com Ed's
10 proposal in this case?

11 A Well, it is, but I did want to -- we use
12 the term volatility a lot. We showed numbers that
13 changed in order of magnitude and I just want the
14 record to be clear that all -- as numbers can all
15 change in orders of magnitude and oftentimes in the
16 same order of magnitude, that doesn't make both costs
17 either volatile or nonvolatile.

18 It is the nature at which that change
19 in order of magnitude occurs that defines if it's
20 volatile or not. And I've used the definition that
21 volatile is unstable, unpredictable, difficult to
22 forecast. There are changes in A and G costs that

1 are going to occur, that normally occur, but you're
2 able to forecast them because you know of some law
3 changing down the road or there is something else
4 occurring. And so you know those, and you'll see
5 some order of magnitude change in those numbers.

6 I would say, and in the first example
7 I gave during that cross examination were health
8 costs. And I do believe that in my view that health
9 costs, at least recently, border on volatility. They
10 are unpredictable and unstable and difficult to
11 predict. But I didn't -- I did not want to infer
12 then, and I don't want to infer now, that order of
13 magnitude changes in and of itself define a cost as
14 volatile.

15 Q Mr. Kaminski asked you questions about
16 Mr. Effron's proposed adjustment to severance. Do
17 you recall those questions, Mr. Hill?

18 A I do.

19 Q And do you understand Mr. Effron to be
20 recommending that the severance amount that Com Ed
21 seeks in this case should be adjusted based upon a
22 five-year average cost, severance cost?

1 A To the first type of severance costs that
2 we both discussed, that's his recommended
3 methodology.

4 Q And you disagree with that methodology?

5 A I do for the reasons included in my
6 surrebuttal testimony.

7 Q And one of the reasons that you disagree
8 with that is that that is not an objective way to
9 evaluate that expense?

10 A I think the AG's attorneys correctly
11 pointed me that Mr. Effron uses three reasons for his
12 methodology and that my surrebuttal only addressed
13 one of those reasons. So I would like to address the
14 other two. The other two are very subjective in
15 nature. Mr. Effron says, in A G Exhibit 3.0 at Lines
16 3 through 4, his first reason, which is simply the
17 years 2001 to 2005 comprise a more recent five-year
18 period than the years 2000 to 2004. Can't argue,
19 factually that is correct. But for determining and
20 averaging methodology that is purely subjective.
21 Many parties on many other issues, select many
22 differing averaging periods. And some, in fact, use

1 2000 to 2004. So it is very subjective on Mr.
2 Effron's part for his first reason.

3 As to his third reason, Mr. Effron
4 states, again at Page 15, Lines 7 through 10, that
5 the Company does not anticipate that any severance
6 costs will be incurred in 2006 or 20007. As we went
7 through the cross examination this morning, in fact
8 there is no evidence on that schedule that suggests
9 such. As to the second reason and the one that I
10 referred to in my surrebuttal testimony,
11 Mr. Effron suggests that simply because the costs of
12 2004 were included in the current DST rates, that
13 somehow makes that value invalid for averaging or for
14 normalizing purposes.

15 And Mr. Effron --

16 MR. BERNET: Mr. Hill is looking at AG 3.15, I
17 think this was marked as an exhibit.

18 MR. KAMINSKI: I'm sorry, which one?

19 MR. BERNET: AG 3.15.

20 MR. KAMINSKI: No.

21 BY MR. BERNET:

22 Q Mr. Hill, you have in front of you Com Ed's

1 response to AG 3 -- request AG 3.15. I'm sorry, AG's
2 response to Com Ed's -- Com Ed Data Request No. 3.15.
3 Can you explain what that is?

4 A Yes, in that request we asked Mr. Effron,
5 do you believe that if a normalized level of one
6 category of a utility's operating expenses is
7 calculated using a multi-year average, then that
8 means that the utility is recovering a portion of the
9 costs of each year used in the averaging? Why or why
10 not.

11 Mr. Effron, I presume it's Mr.
12 Effron's response. First there is an objection as to
13 the relevance. But then it goes on to say, without
14 waiving the stated objection, if a normalized level
15 of one category of a utility's operating expense is
16 calculated using a multi-year average, then that
17 would not necessarily imply that the utility is
18 recovering a portion of the costs of each year used
19 in the averaging.

20 To me that says that even Mr. Effron
21 agrees that the rationale for excluding a year in the
22 average simply because it's currently in rates is not

1 a hard and fast and true method for determining an
2 averaging technique for determining what a normalized
3 cost may be over a period of time.

4 Q And you recall questions by Mr. Kaminski
5 concerning vacancies at Com Ed, vacancies in
6 positions?

7 A Yes.

8 Q Are there any labor costs included in Com
9 Ed's revenue requirement in this case relating to
10 vacant positions?

11 A No. In fact, this is the reasoning I give
12 in my rebuttal and surrebuttal testimonies on this
13 subject. It is important that you view labor costs
14 and not employees. The labor costs included in Com
15 Ed's 2004 test year recorded in 2004, have not been
16 adjusted to add back any payroll or labor costs for
17 employees that may have been vacant or employee
18 positions that would have been vacant over that time
19 period.

20 And so what the 2004 test year salary
21 and wages cost represent is the people and the wages
22 actually paid in 2004. It is not adjusted to remove

1 any employees that are currently there, who will
2 become vacant in 2005 on a temporary basis, nor does
3 it add back any salary and wages expense for
4 positions that were vacant that are expected to be
5 filled on a going forward basis.

6 Therefore, customers are not, in the
7 test year revenue requirement, being asked to pay for
8 salaries and wages for employees that did not exist
9 in 2004.

10 Q Do you recall that Mr. Jolly asked you
11 questions about Com Ed's storm restoration costs?

12 A I did.

13 Q And in particular Mr. Jolly asked you
14 questions about WPC schedule attached to your
15 testimony, WPC 2.5, which is attached to your direct
16 testimony?

17 A Yes.

18 Q Com Ed Exhibit 5, corrected. Do you believe
19 you misstated the actual costs for 2004 storm
20 expenses, storm restoration expenses?

21 A I did. He asked me which storm expenses
22 were in the test year revenue requirement, and I gave

1 him the -- I gave him a number of 18,963,000. Of
2 course, Com Ed made a pro forma adjustment to reduce
3 that amount by 643,000, based on looking at the
4 five-year average, 2000 to 2004 of actual storm
5 restoration expenses, so the total number, 2004 book
6 number, less the pro forma is \$18,320,000, I
7 apologize for that.

8 Q You recall Ms. Scarsella asked you
9 questions about incentive compensation and she asked
10 you whether or not Com Ed had ever quantified amounts
11 customers saved by reductions and expenses. Do you
12 remember those questions?

13 A I do.

14 Q How is it, Mr. Hill, that customers benefit
15 by reductions in savings?

16 A Well, I think, as I explained to staff
17 attorney, that any reductions that occur in a test
18 year that are given for whatever reasons, end up in a
19 lower revenue requirement. And a lower revenue
20 requirement translates into lower rates to customers.

21 Q Are you aware of any expenses that have
22 been reduced between Com Ed's last rate case and this

1 rate case?

2 A I'm sure there are. I'm not sure I'm
3 understanding if I having a specific citation to one,
4 but I did note in the testimonies that the overall
5 level of operating expenses in this proceeding are
6 significantly below the general rate of inflation
7 from that level that was authorized for recovery in
8 Docket 01-0423.

9 MR. BERNET: I have no further questions.

10 JUDGE DOLAN: Any recross by anybody?

11 MR. GIORDANO: A couple questions, your Honor,
12 thanks.

13 RECROSS EXAMINATION

14 BY

15 MR. GIORDANO:

16 Q I would like to refer you to the exhibit
17 that you presented, what is the number of this
18 exhibit? This one?

19 MR. BERNET: It's a schedule. I guess I'll mark
20 the schedule as Com Ed Redirect No. 2.

21 MR. REDDICK: Wouldn't that be 3?

22 MR. JOLLY: Are you going to reduce the diagram

1 up there to an exhibit?

2 MR. BERNET: We'll mark this as Redirect 2.

3 MR. REDDICK: Wasn't 2 the one that wasn't

4 admitted?

5 JUDGE DOLAN: No. 2 was your revenue requirement

6 chart.

7 MR. BERNET: So this will be 3. We would move

8 for admission of Com Ed Redirect Exhibits 2 and 3.

9 MR. BRADY: 2 and 3 or?

10 MR. GIORDANO: This was 1.

11 MR. BERNET: No, that was not.

12 MR. GIORDANO: But it at least needs to have a

13 number. So this would be 2, I believe, because it

14 needs a number.

15 MR. BERNET: For identification purposes?

16 MR. GIORDANO: Correct. So it would be 2, 3 and

17 4.

18 MR. BERNET: But we didn't offer it.

19 JUDGE DOLAN: But we still need, I think, to

20 mark it as an exhibit.

21 MR. BERNET: So we'll call this Com Ed Redirect

22 2.

1 MR. REDDICK: Your Honor, wasn't this 2?

2 JUDGE DOLAN: Yes.

3 MR. BERNET: Then we'll call Schedule A-3A1 --

4 Com Ed Redirect 3 and then this will be Redirect 4.

5 So Com Ed would move for admission of Com Ed Redirect

6 3 and 4.

7 JUDGE DOLAN: Just so I'm clear, wasn't schedule

8 A-3A1 part of his original direct testimony?

9 MR. BERNET: It was not, it was part of the

10 filing in the case, but it was not attached to his

11 testimony.

12 JUDGE DOLAN: So this is 3? So we are moving

13 this as Com Ed Exhibit 3?

14 MR. BERNET: Correct, Redirect Exhibit 3.

15 JUDGE DOLAN: And then this is 4, okay.

16 MR. GIORDANO: We have no objection to admission

17 of Com Ed Redirect Exhibit 3.

18 JUDGE DOLAN: What about 4?

19 MR. BRADY: We have no objection to 4.

20 JUDGE DOLAN: Com Ed Redirect Exhibit 3 and Com

21 Ed Redirect Exhibit 4 will be admitted into evidence.

22

1 (Whereupon, Com Ed Redirect
2 Exhibits Nos. 3 and 4 were marked
3 for identification and admitted into
4 evidence as of this date.)

5 BY MR. GIORDANO:

6 Q Mr. Hill, we actually appreciate this
7 exhibit, I think it helps to make things clearer.
8 Let me refer you to the last page of the exhibit,
9 Page 11 of 11. And so this shows that the revenue at
10 present rates effective June 2006, excluding add on
11 revenue taxes is \$1.579 billion, correct?

12 A That's correct.

13 Q And it's true, so we're really clear in the
14 record, that that's \$72 million higher than the
15 \$1.507 million revenue requirement approved in Docket
16 No. 01-0423, which is the same docket that approved
17 the present rates effective June 2006, correct?

18 A It is the revenue produced from the rates
19 authorized in that proceeding, that were based on
20 1507 revenue requirement, based on costs four years
21 earlier, yes.

22 MR. GIORDANO: Object and move to strike

1 everything except for -- everything in front of yes.

2 I think it was a yes or no question.

3 MR. BERNET: He was just expanding, giving a
4 full answer.

5 MR. GIORDANO: I don't think we need that, I
6 don't think there was any expansion necessary. I
7 think it called for a yes or no answer.

8 JUDGE HALOULOS: Overruled.

9 MR. GIORDANO: Could I possibly have that -- ask
10 for that answer to be read back, please.

11 (Record read as requested.)

12 BY MR. GIORDANO:

13 Q So the answer to my question is yes?

14 MR. BERNET: I think the answer is in the
15 record, the objection was overruled.

16 JUDGE DOLAN: Proceed, please.

17 MR. GIORDANO: I have no further questions.

18 JUDGE DOLAN: Any other redirect -- I mean
19 recross, I'm sorry.

20 MR. KAMINSKI: Yes.

21

22

1 RECROSS EXAMINATION

2 BY

3 MR. KAMINSKI:

4 Q Mr. Hill, in talking about the five-year
5 average, whether it was 2001 through 2005 or 2000
6 through 2004, you described that average as -- the
7 selection of such an average as being subjective,
8 correct?

9 A I did.

10 Q And that goes for the selection of either
11 the 2001 through 2005 or the 2000 through 2004?

12 A I would generally say yes, but Mr. Effron
13 had no trouble accepting our five-year average of
14 2000 to 2004 for storm cost averaging.

15 Q You also answered some questions on
16 redirect regarding vacancies and made a statement
17 regarding the people and wages as of 2004, the test
18 year, correct?

19 A Yes.

20 Q In the 2004 test year, there were 500 --
21 I'm sorry, 5,943 positions at the beginning of the
22 year?

1 MR. BERNET: Can you give us a reference?

2 MR. KAMINSKI: Yes, it would be -- you can
3 either refer to Com Ed Schedule C-2.11A.

4 MR. RATNASWAMY: You mean 112?

5 MR. KAMINSKI: No, it would be C-2.11A.

6 Actually, I believe it refers to the employee
7 reduction in 2004.

8 MR. BERNET: Do you have a copy of what you're
9 looking at?

10 BY MR. KAMINSKI:

11 Q Do you agree that there was an employee
12 reduction in 2004 of approximately 400 positions?

13 A Of approximately 400, did you say?

14 Q Yes.

15 A It looks like the actual number of
16 full-time equivalent employees at year end 2003 and
17 year end 2004, looks about 400 person reduction.

18 Q And would you also agree that the Company's
19 pro forma adjustment reflects an elimination of only
20 228 positions in 2004?

21 A Those would be the permanent reductions.

22 Q And the others are the vacancy reductions?

1 A The difference between the 400 and the 200,
2 yes.

3 Q And would you also agree, referring back to
4 AG Cross Exhibit No. 2, that from the end of 2004 to
5 September 2005, the number of employees continued to
6 decline?

7 A I think we established there was a fairly
8 minor decline.

9 Q By minor, you mean less than 100?

10 A I would have to have the number in front of
11 me again. I've got to find it.

12 Q Subject to check, from end of 2004, 5,539
13 to September 2005 of 5,462?

14 MR. BERNET: You are referring to one of your
15 exhibits?

16 MR. KAMINSKI: Yes, it's the Cross Exhibit 2
17 that was used.

18 THE WITNESS: That's at month end
19 September '05? BY MR. KAMINSKI:

20 Q Yes.

21 A Was that the same schedule that showed the
22 entire performance month end for all of '05.

1 Q Correct?

2 A Is that the schedule that showed that in
3 December '05 that number has increased from
4 September '05?

5 MR. BERNET: Could you repeat that question,
6 please? We don't need the question.

7 THE WITNESS: I'm trying to recall the exhibit
8 which the AG attorney has graciously given me again.
9 Yes, September '05 employee numbers 5,462. BY MR.
10 KAMINSKI:

11 Q And that is less than the end number for
12 the year 2004, correct?

13 A Yes, by less than 100, yes.

14 Q And would you also refer to, I believe it
15 was some other date in 2005?

16 A Yes, I was just mentioning that my
17 recollection was that December '05 that number had
18 crept up again some.

19 Q But that is still below the number for
20 2004, correct?

21 A It is. And I think the salient point is
22 that not only does Com Ed's 2004 test year not have

1 the costs of those 400 employee reductions built into
2 it, it also reflects an additional amount annualizing
3 the effect of 200 of those 400 employees in the 2004
4 test year expenses.

5 MR. KAMINSKI: I have no more questions.

6 MS. SCARSELLA: I just have one question.

7 Would you like to take a break?

8 RECROSS EXAMINATION

9 BY

10 MS. SCARSELLA:

11 Q Good afternoon, Mr. Hill, it's officially
12 noon. My name is Carla Scarsella and I represent
13 staff. Com Ed counsel, Mr. Bernet, asked you about
14 incentive compensation, correct, on redirect?

15 A Yes.

16 Q And he asked you how ratepayers will
17 benefit, as a result of incentive compensation. And
18 you had mentioned the overall decrease in expenses,
19 correct?

20 A That's not how I recall it. I think
21 Mr. Bernet's question was directed at just a
22 reduction in operating expenses, and how that

1 benefited customers. I don't think he was specific
2 to incentive compensation. And I think I indicated
3 that I believe the overall operating expenses in this
4 proceeding is slightly higher, less than the amount
5 of general inflation over the time period, from the
6 last proceeding, or the last amount allowed by the
7 Commission in the last proceeding.

8 MS. SCARSELLA: Then I have no further
9 questions, thank you.

10 JUDGE DOLAN: Thank you.

11 MR. BRADY: I have a couple, actually.

12 RECROSS EXAMINATION

13 BY

14 MR. BRADY:

15 Q Mr. Hill, when you were creating Exhibit 4,
16 I noticed you had a document in your hand from which
17 you were culling some numbers to put on that
18 document. What was that exhibit? What was that
19 document you were referring to?

20 A It's the one I created on my kitchen table
21 last night.

22 Q So those numbers were off the top of your

1 head?

2 A No, I specifically referenced the Schedule
3 4 in my rebuttal testimony and the amounts for the
4 transfer dollar amounts from my rebuttal testimony.
5 But how graphically I was going to portray it, I did
6 on my kitchen table last night.

7 Q Do you recall the docket number in which
8 the transfer was approved?

9 A I do not, I think it's a matter of record,
10 I don't know the number.

11 Q A matter of record in this docket?

12 A No, not in this docket.

13 Q Just that it exists in a docket somewhere?

14 A Yes, from my recollection.

15 Q Then how did you get the 164 million, how
16 did you get the dollar figure 164 million?

17 A That was in my testimony in this
18 proceeding, it was also in my testimony in the last
19 proceeding. I believe the Schedule 4 attached to my
20 rebuttal testimony references the citation in Docket
21 01-0423.

22 MR. BRADY: No further questions.

1 JUDGE DOLAN: Thank you. Mr. Balough.

2 MR. BALOUGH: Yes, your Honor, I did not sign up
3 for any direct or cross. But I do have one -- a
4 point of clarification on the Com Ed Redirect 3, if I
5 may ask.

6 JUDGE DOLAN: Certainly.

7 MR. BERNET: What exhibit are you referring to?

8 MR. BALOUGH: Com Ed Redirect 3.

9 CROSS EXAMINATION

10 BY

11 MR. BALOUGH:

12 Q Mr. Hill, my name is Richard Balough and I
13 represent CTA. I just wanted to clarify something on
14 the schedule that is now in evidence. On Page 5,
15 there is the railroad class, and that is under the
16 comparison and that would be the present rates; is
17 that correct?

18 A That's how I understand all of the data is
19 calculated on Pages 2 through 6 of this exhibit.

20 Q And isn't it correct that currently, in
21 particular the CTA, does not take under rate RCDS?

22 MR. BERNET: I'm going to object, that's beyond

1 the scope of this witness' testimony.

2 MR. BALOUGH: Your Honor, all I'm trying to do
3 is clarify, they've put in this exhibit that shows
4 that this is the current revenues that they are
5 collecting from the railroad class and the point is,
6 very simply, we don't take under rate RCDS.

7 THE WITNESS: I'm sorry, I can answer that
8 question. This particular -- this particular exhibit
9 calculates what the delivery service revenue would be
10 under current rates if all customers took delivery
11 service.

12 BY MR. BALOUGH:

13 Q So this would not accurately reflect what
14 the current collections are from the railroad class?

15 A Well, just as many as, probably, most of
16 our residential class does not currently take service
17 under delivery service tariffs, it's under bundled
18 rates, so it's the same.

19 JUDGE DOLAN: Thank you. Any redirect?
20 Re-redirect.

21 MR. BERNET: No redirect.

22 JUDGE DOLAN: All right, thank you, Mr. Hill.

1 (Witness excused.)

2 JUDGE DOLAN: Looks like we have a couple of
3 short ones Meischeid.

4 MS. POLEK-O'BRIEN: And Dr. Tierney's here.

5 MR. McALEENAN: My name is Brian McAleenan, I'm
6 an attorney with Sidley Austin LLP. I'm one of the
7 attorneys for Commonwealth Edison Company and I'm
8 here to present the testimony of expert witness
9 Richard Meischeid. Would you like to swear in the
10 witness.

11 (Witness sworn.).

12 RICHARD MEISCHEID,
13 called as a witness herein, having been first duly
14 sworn, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY

17 MR. McALEENAN:

18 Q Mr. Meischeid, for the record, please state
19 your name and spell your last name.

20 A Richard F. Meischeid, M-e-i-s-c-h-e-i-d.

21 Q By whom are you employed?

22 A Towers Baron.

1 Q What is your business address?

2 A 1500 Market Street, Philadelphia, PA 19102.

3 Q What is your position at Towers Baron?

4 A Managing principle.

5 Q Mr. Meischeid, did you prepare any

6 testimony in this proceeding?

7 A Yes, direct and rebuttal.

8 Q Do you have in front of you copies of your

9 direct and rebuttal testimony?

10 A I do.

11 JUDGE DOLAN: Counsel, I know you're just

12 starting here, but we've kind of made an agreement

13 that unless someone has an objection to the testimony

14 that we're just going to introduce it and cut off the

15 verification; isn't that correct?

16 MR. McALEENAN: That's fine.

17 JUDGE DOLAN: Wasn't that the agreement of the

18 parties?

19 MR. BRADY: To move things along, yes.

20 MR. McALEENAN: So I can just move to admit the

21 two exhibit numbers?

22 JUDGE DOLAN: Yes, unless there is objection.

1 MR. McALEENAN:I move to admit Com Ed Exhibits
2 12 and 27, the direct and rebuttal testimony of
3 Richard Meischeid.

4 JUDGE DOLAN: Any objections?

5 MR. GARG: No objection.

6 JUDGE DOLAN: So Com Ed Exhibit 12 and Com Ed
7 Exhibit 27 will be admitted into the record.

8 (Whereupon, Com Ed
9 Exhibits Nos. 12 and 27 were
10 admitted into evidence as
11 previously marked on e-docket
12 of this date.)

13 MR. McALEENAN: Thank you, your Honor, and I
14 tender Mr. Meischeid for cross.

15 CROSS EXAMINATION

16 BY

17 MR. GARG:

18 Q Thank you, your Honor. Hello Mr.
19 Meischeid, my name is Rishi Garg and I work for the
20 attorney general's office. I just have a few
21 questions.

22 Can you please refer to Page 9 of your

1 direct testimony. Do you describe there your
2 comparative analysis of Com Ed compensation,
3 including incentive compensation?

4 A Yes, we do.

5 Q At the bottom of the page, do you list the
6 utility companies included in your comparative
7 analysis?

8 A Yes, in this particular analysis it is
9 cited on page 9.

10 Q Is one of the utilities listed Ameron?

11 A Yes, it is.

12 Q Is that the only company listed with
13 operations in Illinois?

14 A Yes, I believe so.

15 Q At the bottom of Page 10, on Line 217, do
16 you conclude that Com Ed's incentive compensation is
17 roughly comparable to the average of the other
18 companies in your analysis?

19 A Line 217 refers to the target incentive
20 levels.

21 Q Do you state in Line 217 that the annual
22 incentive levels approximately equal the median and

1 average peer group level?

2 A Yes, I do.

3 Q Preparing this testimony, did you review

4 the Commission's treatment of incentive compensation

5 in the most recent Ameron rate cases?

6 A I did not.

7 MR. GARG: Thank you, no more questions.

8 JUDGE DOLAN: Anyone else have any questions?

9 Any redirect?

10 MR. McALEENAN: No, your Honor.

11 JUDGE DOLAN: Thank you, Mr. Meischeid, you'll

12 be excused.

13 (Witness excused.)

14 JUDGE DOLAN: All right. Next, Com Ed Witness

15 Tierney.

16 SUSAN TIERNEY,

17 called as a witness herein, having been first duly

18 sworn, was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY

21 MS. POLEK-O'BRIEN:

22 Q Dr. Tierney, what is your name?

1 A My name is Susan Tierney.

2 Q And your business address?

3 A Analysis Group, 111 Huntington Avenue,
4 Boston, Massachusetts.

5 Q And could you give us a very brief summary
6 of your professional experience?

7 A Yes. I have potentially three parts of my
8 professional training and experience. Most recently
9 I've been a consultant for the last 10 years at
10 Analysis Group and in other consulting firms on
11 issues related to regulation of the gas industry.

12 Before that I was in a variety of
13 senior government positions in the state of
14 Massachusetts and in the Federal government. In
15 Massachusetts I was head of our energy facility
16 citing counsel, I was commissioner of the
17 Massachusetts's Department of Public Utilities, I was
18 Secretary of Environmental Affairs. And in the
19 Federal government, I served as assistant secretary
20 for policy at the U.S. Department of Energy. And
21 then before all of that I was an assistant professor
22 at the University of California at Irvine.

1 MS. POLEK-O'BRIEN: Thank you. I am unaware of
2 any objections to testimony, so therefore I'm just
3 going to move it into evidence. Com Ed's Exhibits
4 22.0 and 38.0, including on 22 Exhibit A.

5 JUDGE DOLAN: No objections?

6 MS. SCARSELLA: No.

7 JUDGE DOLAN: Okay. Com Ed Exhibit 22 will be
8 admitted along with Com Ed 22, Exhibit A and then Com
9 Ed EXHIBIT 38 will be admitted into the record.

10 (Whereupon, Com Ed
11 Exhibits Nos. 22 and 38 were
12 admitted into evidence as
13 previously marked on e-docket
14 of this date.)

15 MS. POLEK-O'BRIEN: I tender Dr. Tierney for
16 cross.

17 (Witness sworn.)

18 CROSS EXAMINATION

19 BY

20 MS. SCARSELLA:

21 Q Good morning.

22 A Morning.

1 Q My name is Carla Scarsella and I represent
2 staff witnesses of the Illinois Commerce Commission.

3 A Hello.

4 Q I have a couple of questions about
5 incentive compensation for you. In your rebuttal and
6 surrebuttal testimony you responded to staff's
7 testimony regarding the pension -- I'm sorry, I just
8 said incentive comp, I meant pension asset, I'm
9 sorry.

10 Well, we'll try this again. I've got
11 some pension asset questions for you. In your
12 rebuttal and surrebuttal testimony you responded to
13 staff's testimony regarding the pension asset,
14 correct?

15 A Yes.

16 Q I would like to refer you to your rebuttal
17 testimony, Com Ed Exhibit 22.0, Page 14, Lines 298 to
18 300.

19 A Yes.

20 Q There you state if regulators decided for
21 this reason not to allow recovery of pension assets
22 and rates, that, in effect, they would be saying that

1 they no longer support direct benefit pension plans
2 for utility workers, correct?

3 A That is what those words say, yes.

4 Q Can you tell me if there are any utilities
5 in Illinois who have been allowed recovery of pension
6 assets in base rates?

7 A In base rates, including pension expense?

8 Q No, the pension asset.

9 A I don't know the answer to that.

10 Q So you are not aware of any utilities in
11 Illinois who currently recover a pension asset in
12 base rates?

13 A I don't know one way or the other.

14 Q I would like to refer you to your
15 surrebuttal testimony, Page 4 to 5.

16 A Yes.

17 Q Lines 88 through 91. There you mention the
18 carrying costs associated with supporting the
19 Company's pension obligations, correct, in that
20 sentence?

21 A Yes.

22 Q Given the fact that the funds used for the

1 contribution were reported as contributed capital on
2 Com Ed's books, what carrying cost does Com Ed have
3 with supporting the pension obligation?

4 A Could you give me further information in
5 your question, because there are a lot of elements of
6 that, I want to make sure I've got it.

7 Q Well, you mention the carrying costs with
8 regards to supporting a pension obligation, correct?

9 A Yes.

10 Q And in this proceeding, the contribution
11 used to fund the pension asset was recorded as
12 contributed capital, correct?

13 A I don't know what accounting there was for
14 this.

15 Q So you are not aware as to whether Com Ed
16 has any carrying costs associated with the pension
17 obligation?

18 A What I am aware of is that, or what my
19 understanding is, is that Com Ed's shareholders
20 provided equity that was used on behalf of Com Ed, by
21 Exelon, for the purpose of pension obligation
22 fulfillment.

1 Q Are there any carrying costs associated
2 with that transaction for Com Ed?

3 A I think that's what the issue in this case
4 is, is whether or not there will be recovery by
5 putting that shareholder contribution into rate base,
6 and that's what I'm suggesting is the means by which
7 those carrying costs would be recovered.

8 Q So we're talking actually about Exelon's
9 carrying costs?

10 A No, I'm talking about the equity
11 contribution of Com Ed's shareholders.

12 Q So you're equating carrying costs with
13 equity contribution?

14 A I am equating carrying costs as the return
15 on the use of Com Ed's funds, equity funds, for the
16 purpose of providing the fulfillment of the pension
17 obligations of Com Ed.

18 MS. SCARSELLA: All right. I have no further
19 questions, thank you.

20 MS. POLEK-O'BRIEN: We have no redirect.

21 JUDGE DOLAN: Thank you, you're excused.

22 (Witness excused.)

1 MS. POLEK-O'BRIEN: We are ready to start
2 Mr. DeCampli, if we have time.

3 JUDGE DOLAN: Why don't we at least get
4 Mr. DeCampli started. We have a couple short ones.

5 (Witness sworn.)

6 DAVID DeCAMPLI,
7 called as a witness herein, having been first duly
8 sworn, was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY

11 MR. BERNET:

12 Q Good afternoon, Mr. DeCampli. Please state
13 your full name and spell it for the record.

14 A David DeCampli spelled, D-e, capital
15 C-a-m-p-l-i.

16 Q And by whom are you employed and in what
17 capacity?

18 A Exelon Corporation. And in the capacity of
19 vice president of asset investment strategy and
20 development.

21 Q And do you have before you Com Ed
22 Exhibit 4.0?

1 A Yes, I do.

2 Q And can you tell us what that is?

3 A That is my direct testimony in this case.

4 Q And attached to that direct testimony are
5 three exhibits; is that right?

6 JUDGE DOLAN: Mr. Bernet, unless there is some
7 objections to the testimony, I don't think we are
8 going to have to go through all, so if you just want
9 to let us know. Do you have any objections to any of
10 that? Okay, why don't we just list what we have and
11 we'll move on from there.

12 MR. BERNET: Com Ed Exhibits 4.0 with
13 Attachments 4.1, 4.2 and 4.3. Com Ed Exhibit 14.0
14 revised. And Com Ed Exhibit 31.0 revised. Com Ed
15 would move for admission of those pieces of
16 testimony.

17 JUDGE DOLAN: No objection?

18 MR. FEELEY: Staff has no objection. My
19 understanding is what is being offered is the
20 testimony that has the original cost issues removed
21 from it.

22 MR. BERNET: Yeah, that's correct. The reason

1 Mr. DeCampli's testimony is revised, his rebuttal is
2 revised, as is his surrebuttal. Can we go off the
3 record for a minute?

4 (Discussion off the record.)

5 JUDGE DOLAN: A discussion took place concerning
6 the revisions in Mr. DeCampli's testimony.

7 Proceed, Counsel.

8 MR. BERNET: Your Honor, just one other thing,
9 attached to Mr. DeCampli's direct testimony was an
10 exhibit that was identified on e-docket, but which is
11 a DVD that Mr. DeCampli prepared in connection with
12 this case, and I know that it was filed. I have
13 extra copies if you didn't get it.

14 JUDGE DOLAN: All right. If there is no
15 objection, then, DeCampli exhibit -- or Com Ed
16 Exhibit 4.0, will be admitted into the record,
17 DeCampli Exhibit 4.1, DeCampli exhibit -- or I'm
18 sorry, Com Ed Exhibit 4.1 and Com Ed Exhibit 4.2 and
19 Com Ed Exhibit 4.3 will be admitted into the record.
20 Com Ed Exhibit 14.0 revised, and Com Ed Exhibit 31.0
21 revised will be admitted into the record.

22

1 (Whereupon, Com Ed
2 Exhibits Nos. 4.0, 14.0 and
3 31.0 were admitted into evidence
4 as previously marked on e-docket
5 of this date.)

6 JUDGE DOLAN: Go ahead and get started here.

7 MR. FEELEY: Actually staff has no recross,
8 given his testimony has been revised to remove the
9 original cost in it. If the motion were not granted
10 and his testimony as filed on e-docket were offered,
11 then we would reserve the right to cross him on that,
12 but we have no cross on the revised testimony.

13 JUDGE DOLAN: Subject to, that okay. Anybody
14 ready to start questioning?

15 MR. GARG: Your Honor, the people share the same
16 position as staff, subject to the revised filing if
17 the motion be granted.

18 JUDGE DOLAN: Mr. Balough, you are looking at
19 30 minutes?

20 MR. BALOUGH: About 30 minutes. Do you want to
21 go now or after the break?

22 JUDGE DOLAN: CUB is looking at only 10, do you

1 want to go ahead and go?

2 MR. NICKERSON: Your Honor, I have a line of
3 cross examination on one subject matter, I think I
4 can get it done in approximately 10 or 15 minutes.
5 If you want me to go ahead, I'm ready to go.

6 JUDGE DOLAN: Why don't you go ahead and
7 proceed. Let's go off the record for for one second.

8 (Discussion off the record.)

9 MR. BERNET: Your Honor, one point of
10 clarification, attached to Mr. DeCampli's surrebuttal
11 or revised surrebuttal testimony, Com Ed
12 Exhibit 31.0, there is an Attachment 31.1. It's a
13 response to a CUB data request so we would request
14 that that also be admitted.

15 JUDGE DOLAN: Any objection?

16 MR. NICKERSON: I'm sorry, I didn't catch that.

17 MR. BERNET: There is an attachment to
18 Mr. DeCampli's surrebuttal testimony, it is Com Ed
19 Exhibit 31.1, it is a response to CUB Data Request
20 No. 8.6.

21 MR. NICKERSON: Right, I'm familiar with that
22 document. No objection.

1 JUDGE DOLAN: Then Com Ed's Exhibit 31.1 will be
2 admitted into the record.

3 MR. BERNET: Thank you.

4 JUDGE DOLAN: Proceed, Counsel.

5 CROSS EXAMINATION

6 BY

7 MR. NICKERSON:

8 Q Good morning, Mr. DeCampi, my name is
9 Melville Nickerson, I'm an attorney with the Citizens
10 Utility Board. How are you doing, sir?

11 A Very well and it is the afternoon.

12 Q It is. It's been a long morning and I'm
13 happy it's the afternoon now. You are the vice
14 president of asset investment strategy and
15 development at Com Ed; is that correct?

16 A It is correct.

17 Q Com Ed is a multi million dollar company;
18 is that correct?

19 A Yes.

20 Q In fact, Com Ed invested approximately \$3
21 billion in transmission and distribution systems
22 since 2001, correct?

1 A That's correct.

2 Q As vice president of a multi billion dollar
3 company, you have a lot of responsibility; is this
4 correct?

5 A I have a good number of responsibilities,
6 yes.

7 Q For example, you have a responsibility to
8 manage Com Ed's capital investments, correct?

9 A Yes.

10 MR. BERNET: I'm going to object to that
11 question. You mean all of Com Ed's capital
12 investments, is that what you're talking about?

13 MR. NICKERSON: Just the subject matter and the
14 responsibilities that is under him, under his title
15 of vice president of asset investment strategy and
16 development, which he has also identified his answer
17 is yes.

18 MR. BERNET: I'll withdraw.

19 JUDGE DOLAN: Okay, proceed.

20 BY MR. NICKERSON:

21 Q You are also responsible for long-term
22 planning; is that correct?

1 A Long-term planning of the distribution
2 system, yes.

3 Q In order to insure that Com Ed's
4 investments are prudently incurred, you rely upon a
5 series of analyses; is that correct?

6 A Yes.

7 Q For example, you rely on rigorous economic
8 analysis to decide the reasonable course of action;
9 is that correct?

10 A Yes.

11 Q And you do this because you have a
12 responsibility to Com Ed; is that correct?

13 A Com Ed and the customers that we serve.

14 Q You also have a responsibility to investors
15 in this respect, correct?

16 A Yes.

17 Q You also have a responsibility to Com Ed
18 customers to pass along any savings that result from
19 capital investments, correct?

20 A Yes.

21 Q At this time I would like to draw your
22 attention to your rebuttal testimony filed on January

1 20th, 2006.

2 MR. BERNET: Counsel, it was actually filed
3 January 30th.

4 MR. NICKERSON: I stand corrected, it is the
5 30th. For the record, I'm now marking for
6 identification CUB Cross Exhibit No. 1 for
7 identification, which is Mr. DeCampli's rebuttal
8 testimony filed on January 30th, 2006.

9 MR. BERNET: Is there a reason to mark it as a
10 cross exhibit, it's already admitted?

11 JUDGE DOLAN: Mr. Nickerson.

12 MR. NICKERSON: For clarity in the record
13 nothing more. If you don't think it's necessary,
14 it's not a problem.

15 JUDGE DOLAN: No, I don't think it's necessary,
16 I think just based on -- it's already admitted, so
17 you can ask him questions based upon.

18 BY MR. NICKERSON:

19 Q Mr. DeCampli, at this time I would like to
20 direct your attention to Page 10 -- excuse me, Page
21 12 of your rebuttal testimony.

22 MR. BERNET: Can we go off the record, please?

1 JUDGE DOLAN: Sure.

2 (Discussion off the record.)

3 MR. BERNET: We're going to continue to object,
4 it's beyond the scope of his testimony.

5 MR. NICKERSON: Your Honor, can I just have a
6 moment, please.

7 JUDGE DOLAN: Certainly.

8 (Discussion off the record.)

9 MR. NICKERSON: Your Honor, and opposing
10 counsel, I understand, I wasn't fully aware of the
11 deal that had been agreed to between various parties.
12 The subject matter on which I would like to discuss
13 here now is very simply capital investment versus
14 maintenance experience. I'm not going to offer this
15 into the record and I would like to ask a few
16 questions upon this graph.

17 MR. BERNET: Again, we didn't offer it into
18 evidence, the page is blank, it's not being offered
19 and we would object strongly to any discussion of
20 this.

21 JUDGE DOLAN: Well, if it's not going to be
22 admitted into evidence, then it is beyond the scope

1 of his testimony. So I'll have to sustain the
2 objection.

3 MR. NICKERSON: Very fine, your Honor.

4 BY MR. NICKERSON:

5 Q At this point in time, Mr. DeCampli, I
6 would like to direct your attention to CUB
7 Exhibit 2.0, which is the corrected direct testimony
8 of Mr. Michael J. McGarry.

9 MR. BERNET: Do you have a line number?

10 MR. NICKERSON: I'll get there in a second.

11 MR. BERNET: That was direct, right?

12 MR. NICKERSON: I have copies of it.

13 BY MR. NICKERSON:

14 Q Mr. DeCampli, in order to prepare your
15 rebuttal testimony, you had to review and analyze the
16 direct testimony submitted by Mr. McGarry; is that
17 correct?

18 A That's correct.

19 Q I would like to draw your attention at this
20 point in time to Page 15 of Mr. McGarry's direct
21 testimony. Figure MJM 1 is Commonwealth Edison
22 Company distribution operation and maintenance

1 expenses source for Form 1 correct?

2 A That is correct.

3 Q Mr. McGarry (sic), in the year 2001, Com Ed
4 made a conscious decision to spend approximately
5 35 -- excuse me, \$350 million in maintenance
6 expenses; is that correct?

7 A According to the figure, that is correct.

8 Q In 2001, the operation expenses were less
9 than 150,000 -- excuse me, \$150 million; is that
10 correct?

11 A Yes, that is correct.

12 Q In 2002, Com Ed spent approximately --
13 well, less than \$350 million in maintenance expenses,
14 correct?

15 A That is correct.

16 Q And in addition, Com Ed's operations
17 expenses were about the same as 2001; is that
18 correct?

19 A They are very close.

20 Q Looking into the year 2003, Com Ed's
21 maintenance expenses were less than \$300,000,
22 correct?

1 A No.

2 MR. BERNET: You mean 300 million?

3 MR. NICKERSON: Excuse me, \$300 million, I
4 apologize.

5 THE WITNESS: Yes, they were.

6 BY MR. NICKERSON:

7 Q In the year 2003, Com Ed spent less than
8 100,000 in operation -- excuse me, \$100 million in
9 operational expenses; is that correct?

10 A That's correct.

11 Q In fact, Com Ed spent less money in 2003
12 for operational expenses than it did in 2002; is that
13 correct?

14 A That is correct.

15 Q The same is also true for the corresponding
16 year 2003; is that correct?

17 MR. BERNET: I'm going to object, are you
18 talking about comparison with 2003 and 2004?

19 MR. NICKERSON: I'll be happy to rephrase the
20 question.

21 BY MR. NICKERSON:

22 Q Mr. DeCampli, in the year 2004, Com Ed

1 spent less money than 2003 towards operational
2 expenses; is that correct?

3 A Yes, that is correct.

4 MR. NICKERSON: At this time I have another
5 exhibit I would like to go over or another document I
6 would like to go over. The subject matter has been
7 marked confidential, so I guess my understanding is
8 that persons that are not privy to confidential
9 information should be excused at this time.

10 JUDGE DOLAN: Any non-commission employees or
11 anyone who has not signed the confidentiality
12 agreement would have to leave the room at this point.

13 JUDGE DOLAN: Off the record.

14 (Discussion off the record.)

15 JUDGE DOLAN: All right, Mr. Nickerson, go

16 ahead. (Whereupon, the following
17 proceedings were had in
18 camera.)

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